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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA EASTERN DIVISION**

**CITY OF SAN BERNARDINO**, a  
California municipal corporation,  
on behalf of the PEOPLE OF THE  
STATE OF CALIFORNIA,

Plaintiff,

vs.

**Janet Summerfield**, an individual; and,  
**Does 1 to 25**, inclusive,

Defendants.

**Janet Summerfield**, an individual,  
Cross-complainant,

vs.

**CITY OF SAN BERNARDINO**, a California  
municipal corporation, **United States  
Department of Housing and Urban  
Development**, the **Superior Court of  
California for the County of San  
Bernardino**, and **Does 1 to 25**, inclusive,

Cross Defendants.

Case No.: **5:22-cv-1428**

**Exhibit In Support of First Amended,  
Verified Cross-complaint  
for Injunctive Relief and Damages**

**Exhibit B**

**Declaration of Lonnie Haughton**

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8 **UNITED STATES DISTRICT COURT**  
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11 California municipal corporation,  
12 on behalf of the PEOPLE OF THE  
13 STATE OF CALIFORNIA,

14 Plaintiff,

15 **vs.**

16 **Janet Summerfield**, an individual; and,  
17 **Does 1 to 25**, inclusive,

18 Defendants.

19 **Janet Summerfield**, an individual,  
20 Cross-complainant,

21 **vs.**

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23 municipal corporation, **United States**  
24 **Department of Housing and Urban**  
25 **Development**, the **Superior Court of**  
26 **California for the County of San**  
27 **Bernardino**, and **Does 1 to 25**, inclusive,

28 Cross Defendants.

) Case No.: **5:22-cv-1428**

) **Declaration of Lonnie Haughton in**  
) **Support of Cross-complaint for Injunctive**  
) **Relief and Damages**

29 **DECLARATION OF LONNIE HAUGHTON**

30 I, Lonnie Haughton, declare:

1 1. I am over the age of eighteen, a resident of the County of Marin, State of California,  
2 and a retained expert for defendant Janet Summerfield. The following is based on my personal  
3 knowledge, except those things that are disclaimed to be on my information and belief. If called  
4 to testify to my statements below, I could and would do so competently.

5 2. I am a California-licensed contractor (#B-880924) and have been employed since  
6 2005 as a Codes and Construction Consultant at AVELAR (ex-Richard Avelar & Associates), a  
7 forensic architectural and construction consulting firm in Walnut Creek (formerly Oakland),  
8 where I became a partner on January 1, 2010 and advanced to “senior partner” status on January  
9 1, 2018.

10 3. I am a professional member of the International Code Council (hereinafter, “ICC”). I  
11 am one of the approximately 75 active code professionals in California (and approximately 1,200  
12 worldwide) who have been awarded Master Code Professional certification, the ICC's highest  
13 honor. During the course of earning and maintaining my Master Code Professional certification,  
14 I additionally have earned 31 additional 'code official' and 'inspector' certifications, including  
15 Certified Building Official and California Building Inspector.

16 4. I have provided expert witness testimony in numerous depositions and trials. At no  
17 trial have I ever been disqualified as an expert. A true and correct copy of my current curriculum  
18 vitae is attached hereto as *Exhibit 1*. As delineated within my CV, I have published numerous  
19 construction- and codes-related articles, briefs, and papers, including my following publications  
20 that are particularly relevant to this litigation:

- 21 • My 2020 paper, “‘Express Finding’ Requirements for Local Amendments to  
22 California's Title 24 Building Codes”, a true and correct copy of which is attached hereto  
23 as *Exhibit 2*.
  - 24 • My related 2018 and 2019 briefs, “An Abridged History of the Statewide  
25 ‘California Building Code’” and “An Abridged History of the Origins and Empowerment  
26 of the California Building Standards Commission”.
- 27  
28

1           5.       In regard to Mrs. Summerfield's single-family home at 3618 Hemlock Drive in San  
2 Bernardino, I was retained to evaluate apparent irregularities in alleged property code violations  
3 cited by the City of San Bernardino (hereinafter, the "City") within a "Complaint for: 1)  
4 Nuisance abatement, and 2) Petition for the appointment of a receiver pursuant to Health and  
5 Safety Code § 17980.7" and supporting Exhibits dated March 16, 2021 (hereinafter,  
6 "Summerfield Complaint"). A true and correct copy of the Summerfield Complaint filed by the  
7 City of San Bernardino is attached hereto as *Exhibit 3*.

8           6.       As identified and reviewed below, I find in the Summerfield Complaint a wide range  
9 of disqualifying irregularities, including improper allegations that Mrs. Summerfield had violated  
10 California Building Code (hereinafter, "CBC") § 3401.2 effective statewide during the period  
11 when the 2017 "Notice to Abate" and the subsequent 2018 and 2020 "Notices of Violation" were  
12 issued. In response, I profess and attest that neither the 2016 CBC (effective from January 1,  
13 2017 to December 31, 2019) nor the 2019 CBC (effective statewide from January 1, 2020 to  
14 December 31, 2022) publishes any such maintenance provisions within Chapter 34 (which is  
15 titled "Reserved" and is otherwise blank), nor within any other Chapter of the CBC. As such, in  
16 regard to citations of CBC § 3401.2, the allegation within the Summerfield Complaint that "the  
17 Property remains in continual violation of the CBC" is demonstrably false.

18           7.       Likewise, allegations in the Complaint that "the Property remains in continual  
19 violation of the ...UHC [Uniform Housing Code]" are discredited by the current City of San  
20 Bernardino Municipal Code. Specifically, nowhere within this 2,242-page document  
21 ([www.sbcity.org/city\\_hall/city\\_clerk/municipal\\_code](http://www.sbcity.org/city_hall/city_clerk/municipal_code)) does the City adopt the Uniform Housing  
22 Code. Further, within its Ordinance MC-1521 adopted on September 18, 2019, a true and correct  
23 copy of which is attached hereto as *Exhibit 4*, I find the City explicitly repealed the Uniform  
24 Housing Code as being "unnecessary": "WHEREAS, this Ordinance amends Chapter 15. 04,  
25 Building Codes, ...to eliminate adoptions of other unnecessary uniform codes, ..."

26           8.       Further, the Summerfield Complaint alleges violations of unidentified editions of the  
27 International Property Maintenance Code (hereinafter, "IPMC"). Still further, no IPMC edition  
28

1 has ever been legally adopted by the City nor has such ever been filed with the California  
2 Building Standards Commission (hereinafter, “CBSC”) as required by the State of California's  
3 Health and Safety Code (hereinafter, “HSC”) for all model codes, such as the IPMC, that never  
4 have been published or promulgated by the State of California.

5 9. I find the City's failures so egregious as to have rendered all of the IPMC's provisions  
6 not “effective” or “operative for any purpose”, as set forth in HSC § 18941.5, a true and correct  
7 copy of which is attached hereto as *Exhibit 5*; HSC § 17958.7, a true and correct copy of which  
8 is attached hereto as *Exhibit 6*; and HSC § 18909, a true and correct copy of which is attached  
9 hereto as *Exhibit 7*, which collectively delineate strict procedural requirements for a local  
10 jurisdiction's actions to amend or modify “building standards” published within the “California  
11 Building Standards Codes” promulgated triennially in Title 24 of the California Code of  
12 Regulations (hereinafter, “24 CCR”).

13 10. As evidenced at Exhibit 5, HSC § 18941.5 mandates:

14 Neither the State Building Standards Law contained in this part, nor the  
15 application of building standards contained in this section, shall limit the  
16 authority of a city, county, or city and county to establish more restrictive  
17 building standards, ... reasonably necessary because of local climatic,  
18 geological, or topographical conditions. The governing body shall make the  
19 finding required by Section 17958.7 and the other requirements imposed by  
20 Section 17958.7 shall apply to that finding.

21 11. Then, as evidenced at Exhibit 6, HSC § 17958.7 prescribes, in part:

22 (a) ...the governing body of a city or county, before making any modifications  
23 or changes pursuant to Section 17958.5, shall make an express finding that  
24 such modifications or changes are reasonably necessary because of local  
25 climatic, geological or topographical conditions. ... A copy of those findings,  
26 together with the modification or change expressly marked and identified to  
27 which each finding refers, shall be filed with the California Building  
28 Standards Commission. No modification or change shall become effective or  
operative for any purpose until the finding and the modification or change  
have been filed with the California Building Standards Commission.

12. Finally, as evidenced at Exhibit 7, HSC § 18909 defines “building standards” to  
encompass all facets, excepting those provisions solely administrative in nature, of building  
construction and performance, including, in part:

(a) “Building standard” means any rule, regulation, order, or other  
requirement, including any amendment or repeal of that requirement, that

specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission. ...

(c) "Building standard" includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, ...

13. My paper, "Express Finding' Requirements for Local Amendments to California's Title 24 Building Codes", attached hereto as Exhibit 2, traces the history of these HSC §§ 18941.5, 17958.7, and 18909 requirements back to Chapter 1436 of the California State Legislature's Statutes of 1970, which prescribed in part:

The Legislature hereby finds and declares that the uniformity of codes throughout the State of California is a matter of statewide interest and concern... Uniformity can be achieved within a framework of local autonomy, by allowing local governments to adopt changes making modifications in such codes but requiring express findings as reasons for these changes, which would serve as a deterrent to the excessive adoptions of changes or modifications.

14. My 'Express Finding' paper attached hereto as Exhibit 2 also briefly discusses key California court cases confirming the mandates of HSC §§ 18941.5 and 17958.7 regarding local modifications to "building standards", including:

*Building Industry Association of the San Joaquin Valley v. City of Fresno* (2008):  
We are not the first court to observe that the language of Health and Safety Code Section 17958.7 is clear. ...If the governing body does not make the express finding required by Health and Safety Code Section 17958.7, the governing body's legislation does not comply with state law and is **void**. (emphasis added)

15. Further, the California Building Code (24 CCR, Part 2) long has specifically instructed local jurisdictions how to correctly adopt and file "expressly marked" modified and new building standards in order to render them "effective" and "operative". To that effect, attached as **Exhibit 8** are true and correct provisions from the 2007, 2010, 2013, 2016, and 2019 editions of the CBC mandating:

1.8.6.2 Findings, filings and rejections of local modifications. Prior to making any modifications or establishing more restrictive building standards, the governing body shall make express findings and filings, as required by California Health and Safety Code Section 17958.7, showing that such

1 modifications are reasonably necessary due to local climatic, geological or  
2 topographical conditions. No modification shall become effective or operative  
3 unless the following requirements are met:

- 4 1. The express findings shall be made available as a public record.
- 5 2. A copy of the modification and express finding, each document  
6 marked to cross-reference the other, shall be filed with the California Building  
7 Standards Commission for a city, county, or city and county and with the  
8 Department of Housing and Community Development for fire protection  
9 districts.

10 16. In summary, as evidenced above and below, HSC § 17958.7 mandates that in order  
11 for a jurisdiction's modifications to the 24 CCR building standards or its adoption of new  
12 building standards (such as the model International Property Maintenance Code) not published or  
13 promulgated by the State of California to be “effective” and “operative”, then:

- 14 • The provisions of each modified or new building standard must be individually  
15 identified in the jurisdiction's ordinance and each modified or new building standard must  
16 then be individually justified by an “express finding” that it is “reasonably necessary  
17 because of local climatic, geological [and/or] topographical conditions.”
- 18 • Further, all such individually justified amendments and additions to the 24 CCR  
19 building standards, must “be filed with the California Building Standards Commission”  
20 with each “modification or change expressly marked and identified to which each finding  
21 refers.”

22 17. These HSC § 17958.7 requirements are confirmed by guides, workshops and  
23 webinars published and presented triennially by the CBSC, including:

- 24 • The webinar, “2022 California Code Adoption for Local Jurisdictions”, by Mia  
25 Marvelli, CBSC's Executive Director, and Stuart Tom, P.E., CBO, at:  
26 [www.dgs.ca.gov/BSC/Codes/Local-Amendments-to-Building-Standards---Ordinances](http://www.dgs.ca.gov/BSC/Codes/Local-Amendments-to-Building-Standards---Ordinances).
- 27 • A prior 2016 webinar, “California Code Adoption for Local Jurisdictions”,  
28 similarly presented by Mr. Tom and Ms. Marvelli, a true and correct copy of which is  
attached hereto as *Exhibit 9*.

18. As evidenced at Exhibit 9, this 2016 training webinar presented by Mr. Tom (Chief  
Building Official of the City of Glendale) and Ms. Marvelli (CBSC Executive Director)  
informed local towns, cities, and counties that HSC § 17958.7 requires each modified or new



1 building standard “be individually justified” as being “reasonably necessary because of local  
2 climatic, geologic or topographical conditions.”

3 19. In contrast, I find the City of San Bernardino's “building standards” amendment and  
4 adoption processes so greatly deviate from the requirements of HSC § 17958.7 (attached hereto  
5 as Exhibit 6) and the comparable mandates of CBC § 1.8.6.2 (attached hereto as Exhibit 8) as to  
6 render them neither “effective” nor “operative”.

7 20. For example, “Ordinance MC-1417” (hereinafter, “Ord. MC-1417”) adopted by the  
8 City on October 9, 2015 - a true and correct copy of which is attached hereto as *Exhibit 10* -  
9 reveals the following violations of HSC § 17958.7 and CBC § 1.8.6.2:

10 • At Ord. MC-1417, the City adopted and amended the “2012 International  
11 Property Maintenance Code” without individually justifying its “building standards” with  
12 “express findings” that each was “reasonably necessary” due to specific “local climatic,  
13 geological [and/or] topographical conditions.”

14 • Further, the City not only failed to identify to the CBSC each new or modified  
15 “expressly marked” building standard encompassed by Ord. MC-1417, but also did not  
16 even inform the CBSC of its adoption of a new model code that never has been published  
17 or promulgated by the State of California.

18 21. Comparably, I find the very same disqualifying violations of HSC § 17958.7 within  
19 the City's “Ordinance MC-1521” adopting the 2015 edition of the IMPC on September 18, 2019  
20 and “Ordinance MC-1525” adopting the 2018 edition of the IMPC on January 15, 2020.

21 22. Further, the following CBSC website evidences a pattern and practice by the City of  
22 never filing such ordinances: [www.dgs.ca.gov/BSC/Codes/Local-Amendments-to-Building-](http://www.dgs.ca.gov/BSC/Codes/Local-Amendments-to-Building-Standards---Ordinances)  
23 [Standards---Ordinances](http://www.dgs.ca.gov/BSC/Codes/Local-Amendments-to-Building-Standards---Ordinances), contrary to HSC § 17958.7.

24 23. As such, I find that the allegation within the Summerfield Complaint that “the  
25 Property remains in continual violation of the ...IPMC” is demonstrably incorrect because the  
26 City repeatedly has failed to take the actions required to render the IPMC “effective or  
27 operative” in accordance with HSC § 17958.7.



1 24. In summary, I find that allegations and demands made within the Summerfield  
2 Complaint remarkably rely upon non-existent, currently unadopted, and inoperative codes:

- 3 • CBC § 3401.2 does not exist in either the 2016 or current 2019 editions of the  
4 California Building Code;
- 5 • The City unadopted the Uniform Housing Code as being “unnecessary” on  
6 September 18, 2019, as evidenced at attached Exhibit 4; and
- 7 • The City has never taken the actions required to render the IPMC “effective or  
8 operative” in accordance with the mandates of both HSC § 17958.7 and the same  
9 California Building Code that the City improperly has cited.

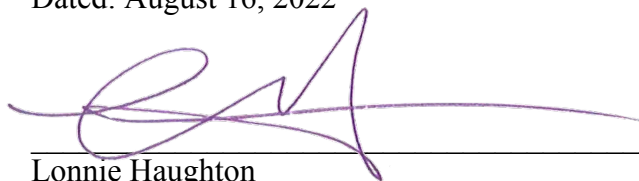
10 25. As such, in my professional opinion, the City's highly extreme attempt to assert  
11 control of both Mrs. Summerfield's residence at 3618 Hemlock Drive, and her financial accounts  
12 is not substantively supported by applicable (operative) building codes and standards.

13 26. Further, considering the City's pattern and practice of disregarding the longstanding  
14 requirements of both HSC § 17958.7 and CBC § 1.8.6.2, I suggest the City first should  
15 thoroughly review, identify, and fix (or expunge) all improperly adopted, unfiled (i.e.,  
16 inoperative) “building standards” currently existing within its Municipal Code prior to initiating  
17 or continuing enforcement actions against any person or entity.

18 27. In particular, in regard to the Summerfield Complaint attached hereto as Exhibit 3, it  
19 is my professional opinion that no party can be empowered to rely upon or utilize “building  
20 standards” rendered inoperative due to any jurisdiction's violations of the requirements of HSC §  
21 17958.7 and CBC § 1.8.6.2.

22 I declare the above is true under the penalty of perjury under the laws of the United States  
23 of America; executed at Mill Valley, California.

24 Dated: August 16, 2022

25 

26 \_\_\_\_\_  
27 Lonnie Haughton  
28 Building Codes and Construction Consultant