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ALEX CALVO, CLERK  
BY MICHELLE IRIS  
DEPUTY, SANTA CRUZ COUNTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SANTA CRUZ

12 Cove Britton,

13 Petitioner/Plaintiff,

14 vs.

15 County of Santa Cruz, a political subdivision  
16 of the State of California, the Board of  
17 Supervisors of the County of Santa Cruz,  
18 County of Santa Cruz Planning Department,  
19 County of Santa Cruz Director of Planning  
20 Tom Burns, County and Does 1 through 50,

21 Respondents/Defendants

Case No.:

CV165793

) PETITION FOR WRIT OF MANDATE  
) (Civil Code of Procedure Section 1085 AND  
) COMPLAINT FOR INJUNCTIVE RELIEF  
) AND DAMAGES

22 **COMES NOW** Petitioner/Plaintiff Cove Britton to complain and allege as follows:

23 1. This Petition for Writ of Mandate and its related prayer for mandamus, injunctive  
24 relief, damages and costs of suit is brought, in essence, to compel the defendants to comply  
25 with controlling State of California law and reconstitute the County's Building and Fire  
Codes Appeal Board and allow it to do its state mandated job without inappropriate  
interference.

1           2.       This Petition is based on the refusal or failure of the Defendants County of Santa  
2 Cruz (“County”), the Board of Supervisors of the County of Santa Cruz (the “Board”), the  
3 County’s Planning Department (“Planning Department”) and the Planning Department’s  
4 Director Tom Burns (“Director Burns”) to comply with certain codes of State of California  
5 (“State”), specifically California’s Health & Safety Codes (“H&S Codes”) (the relevant  
6 sections of those Codes are attached as **Exhibit 1**) and the 2007 California Building  
7 Standards Code (the relevant sections of those Codes are attached as **Exhibit 2**) and allow  
8 the State required “local appeals board” to be reconstituted and act as the appellate body for  
9 appeals falling within their jurisdiction under State law.

10  
11           3.       All Defendants, except the nominal Defendant Santa Cruz County Building and  
12 Fire Codes Appeal Board (“CBFCAB”), have acted to thwart State law concerning State  
13 mandated “local appeals board” formation, jurisdiction and availability to appellants and  
14 have attempted, therefore, to impose on residents their own building and safety rules and  
15 avoid or thwart State mandated building and safety codes.

16  
17           4.       H&S Code section 17922 essentially adopts for California the building standards  
18 contained in the Uniform Building Code of the International Conference of Building  
19 Officials. Those building standards so established, including the administrative procedures  
20 implementing them, are primarily set forth in Title 24 of the California Code of Regulations  
21 and are often referred to as the “California Building Standards Code,” the “California  
22 Building Code” or the “CBC.” The 2007 California Building Standards Code (“CBC”) is the  
23 most current version of the standardized codes.

24       ////

25       ////

1           5.       The State building standards so established are adopted by and controlling on all  
2 California counties, except in very limited circumstances where a county may modify or  
3 eliminate a code provision after securing approval from the State and after showing that such  
4 was “reasonably necessary because of local climatic, geological or topographical conditions.”  
5 (H&S Code, sections 17958, 17958.5 and 17958.7)

6  
7           6.       One of the most important provisions of the CBC is found in section 108.8.1 that  
8 mandates that:

9                   “Every city, county or city and county **shall** establish a local appeals  
10 board....The local appeals board...shall each be comprised of at least  
11 five voting members that shall serve at the pleasure of the city,  
12 county or city and county. Appointments shall not be employees  
13 of the jurisdiction and **shall consist of members who are qualified  
and specifically knowledgeable in the California Building Standards  
Codes and applicable local ordinances.**” (Emphases added)

14           7.       Both H&S Code section 17920.5 and CBC section 108.8.1 defines a “local  
15 appeals board” as:

16                   “...the board or agency of a city or county which is  
17 authorized by the governing body of the city or county  
18 to hear appeals regarding the building requirements of  
19 the city or county...”

20           8.       An important related provision of the CBC is section 108.8.3 relating to  
21 “Appeals” that mandates that:

22                   “...any person...affected by a decision, order or determination  
23 by a ...county...relating to the application of building standards  
24 published in the California Building Standards Code, or any  
25 other applicable rule or regulation adopted by the Department  
of Housing and Community Development, or any lawfully

