

1 MICHAEL G. ALLEN*
D. SCOTT CHANG #146403
2 JAMIE L. CROOK #245757
RELMAN, DANE & COLFAX
3 PLLC
1225 19th St. NW, Suite 600
4 Washington D.C. 20036
Telephone: (202) 728-1888
5 Facsimile: (202) 728-0848
schang@relmanlaw.com
6
* Application for admission *pro*
7 *hac vice* approved by Court order
Doc. No. 15
8
9 PAULA D. PEARLMAN #109038
MARIA MICHELLE UZETA
#164402
10 DISABILITY RIGHTS LEGAL
CENTER
11 Loyola Public Interest Law Center
800 S. Figueroa Street, Suite 1120
12 Los Angeles, CA 90017
Telephone: (213) 736-1496
13 Facsimile: (213) 736-1428
Michelle.Uzeta@lls.edu

DAVID GEFFEN #129342
DAVID GEFFEN LAW FIRM
530 Wilshire Blvd., Suite 205
Santa Monica, CA 90401
Telephone: (310) 434-1111
Facsimile: (310) 434-1115
Geffenlaw@aol.com

DARA SCHUR #98638
DISABILITY RIGHTS CALIFORNIA
1330 Broadway, Suite 500
Oakland, CA 94612
Telephone: (510) 267-1200
Facsimile: (510)267-1201
Dara.Schur@disabilityrightsca
.org

AUTUMN ELLIOTT #230043
DISABILITY RIGHTS CALIFORNIA
350 S. Bixel Ave., Suite 290
Los Angeles, CA 90017
Telephone: (213) 213-8000
Facsimile: (213) 213-8001
Autumn.Elliott@disability
rightsca.org

Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
17 (WESTERN DIVISION)

18 INDEPENDENT LIVING CENTER OF)
SOUTHERN CALIFORNIA, *et al.*)

19 Plaintiffs,)

20 vs.)

21 CITY OF LOS ANGELES,)
22 CALIFORNIA, *et al.*,)

23 Defendants.)

Case No.: 12-CV-551 SJO (PJWx)

JOINT STIPULATION BY
PLAINTIFF THE FAIR HOUSING
COUNCIL OF SAN FERNANDO
VALLEY AND DEFENDANT
CITY OF LOS ANGELES,
CALIFORNIA RE: DISCOVERY

Judge: Hon. Patrick J. Walsh
Courtroom: 23, Third Floor, Spring
St. Courthouse
Complaint Filed: Jan. 13, 2012
Discovery Cut-Off: Sept. 3, 2013
Pre-Trial Conference: Nov. 18,
2013
Trial: Dec. 3, 2013

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- I. INTRODUCTORY STATEMENTS.....2
 - A. PLAINTIFF’S INTRODUCTORY STATEMENT.....2
 - 1. Nature of the Case.....2
 - 2. Meet and Confer Efforts3
 - B. THE CITY’S INTRODUCTORY STATEMENT.....4
 - 1. Nature of the Case.....5
 - 2. The City’s Efforts to Respond to the Broad Requests5
- II. REQUESTS FOR PRODUCTION OF DOCUMENTS AT ISSUE.....7
 - A. THE CITY’S OBJECTIONS TO THE REQUESTS FOR PRODUCTION IN GENERAL7
 - 1. Plaintiff’s Argument7
 - a. Standards for Discovery7
 - b. The City’s Generalized Objections8
 - i. The City’s Generalized Burdensomeness Objections9
 - 2. The City’s Argument11
 - a. Plaintiff Did Not Meet and Confer with the City Regarding the City’s Purported “Generalized Objections”11
 - b. The City Has Not Relied On Improper General Objections12
 - c. The City Explained the Basis for its Burdensome Objections.....14
 - d. The City Is Continuing to Search for Responsive Documents15
 - B. DOCUMENT REQUEST NOS. 35 AND 4416
 - 1. Plaintiff’s Argument18
 - a. The City Waived Its Claim of Privilege to Requests Nos. 35 and 44 by Failing to Produce a Timely Privilege Log18

1 b. The City’s Generalized Objections to
 Requests 35 and 44 Should be Overruled.....19

2 2. The City’s Argument21

3 C. DOCUMENT REQUEST NOS. 4, 7-17, 19, 21,
 23-27, 29, 30, 32 and 46.....24

4 1. Plaintiff’s Argument54

5 a. The City Failed to Produce Responsive
 Documents Or Certify That It Has
 Produced All Responsive Documents in
 Response to Request Nos. 4, 7-17, 19,
 21, 23-27, 29, 30, 32 and 4654

6 2. The City’s Argument57

7 a. The City Compiled with Rule 34(b)(2)(E)57

8 b. The City Produced Documents in
 Response to Request Nos. 7, 9, 12,
 19, 23-25, 27, 29, 30 and 3259

9 c. The City Produced Responsive
 Documents for Request Nos.
 4, 8, 10, 11, 13, 14, 15, 16, 17, 21 and 46
 and Continues to Search for
 Responsive Documents.....61

10 D. DOCUMENT REQUEST NOS. 3, 5 & 661

11 1. Plaintiff’s Argument65

12 a. The City Should Be Required to Conduct
 a Further Search for Responsive Documents65

13 2. The City’s Argument66

14 E. DOCUMENT REQUEST NOS. 36-40.....66

15 1. Plaintiff’s Argument73

16 a. The City Should Be Required to Search for
 Responsive Documents in Specific
 Departments of the City.....73

17 2. The City’s Argument74

18 III. INTERROGATORIES AT ISSUE.....76

19 A. INTERROGATORY NOS. 2-8.....76

20 1. Plaintiff’s Argument96

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- a. The City Should be Required to Provide Complete, Written Responses to Interrogatory Nos. 2-896
- 2. The City’s Argument98
- B. INTERROGATORY NOS. 1, 2, 5, 6, 7, 8, 9-25101
 - 1. Plaintiff’s Argument101
 - a. Plaintiff Has Not Exceeded the Permissible Number of Interrogatories101
 - 2. The City’s Argument105
- C. VERIFICATIONS110
 - 1. Plaintiff’s Argument110
 - 2. The City’s Argument110
- IV. REQUESTS FOR ADMISSION AT ISSUE110
 - 1. Plaintiff’s Argument.....111
 - a. The Court Should Order The City to Conduct the Required Inquiry Necessary to Respond to Requests for Admission Nos. 185 and 190111
 - 2. The City’s Argument.....114

1 **I. INTRODUCTORY STATEMENTS**

2 **A. PLAINTIFF’S INTRODUCTORY STATEMENT**

3 Through this motion to compel, Plaintiff Fair Housing Council of San
4 Fernando Valley (“Fair Housing Council”) seeks an order requiring that Defendant
5 City of Los Angeles (the “City”): (1) produce documents or certify that all
6 responsive documents have been produced in response to its Request for Production
7 of Documents Nos. 3-6, 7-17, 19, 21, 23-27, 29, 30, 32, 35, 36-40, 44 and 46; (2)
8 provide responses to Plaintiff’s Interrogatory Nos. 2-25; and (3) provide responses to
9 Plaintiff’s Requests for Admission Nos. 185 and 190. Fair Housing Council’s
10 motion to compel should be granted because the information and documents sought
11 are relevant to the claims and defenses herein and the City has failed to meet its
12 burden of asserting specific objections or supporting its objections.

13 **1. Nature of the Case**

14 Fair Housing Council’s mission includes helping people with disabilities find
15 and keep accessible and affordable housing. Together with two co-Plaintiffs with
16 similar missions, Fair Housing Council alleges that the City and the Designated
17 Local Authority of the Community Redevelopment Agency of the City of Los
18 Angeles (“DLA”) violated their obligations under Section 504 of the Rehabilitation
19 Act, Title II of the Americans with Disabilities Act and California Government Code
20 Section 11135 by failing to ensure that people with physical disabilities have
21 meaningful access to DLA-funded housing programs.

22 The City and the DLA receive federal and state housing funds (Second Am.
23 Compl. (“SAC”) ¶¶ 33, 38, 146-57.) Defendants solicited bids from third parties and
24 provided funding for tens of thousands of DLA-assisted rental units, which Plaintiffs
25 have denominated the Redevelopment Housing Program. (*Id.* ¶¶ 158-64.) Plaintiffs
26 allege that the City and DLA have operated the Redevelopment Housing Program in
27 a fashion that denies meaningful access to people with disabilities and identify at
28 least 61 multifamily projects within the Redevelopment Housing Program that

1 received federal funds and lack the required level of accessibility. (*Id.* ¶¶ 165-86.)

2 The Rehabilitation Act decrees that any recipient of federal funds (such as the
3 City and the DLA) is prohibited from discriminating based on disability. Since
4 1988, HUD’s Section 504 regulations have required “recipients” to comply with the
5 accessibility requirements of the Uniform Federal Accessibility Standards (“UFAS”),
6 which requires a higher level of accessibility than other architectural standards.

7 Through policies that discriminate against people with disabilities, the City
8 and the DLA have made the Redevelopment Housing Program largely off-limits for
9 people with disabilities.

10 **2. Meet and Confer Efforts**

11 Fair Housing Council first propounded a set of interrogatories, requests for
12 admission and request for production of documents approximately five months ago
13 on October 23 and 26, 2012. (Decl. of Michael G. Allen (“Allen Decl.”) ¶ 2.) On
14 November 27 and 30, 2012, the City responded to Fair Housing Council’s first round
15 of written discovery. (Allen Decl. ¶ 3.)

16 On January 8, 2013, Fair Housing Council sent a letter to the City setting forth
17 deficiencies in the City’s discovery responses. (Ex. 1 to Allen Decl., 1/8/13 Ltr.
18 from Pl. to City.) On January 11, 2013, Fair Housing Council sent another letter
19 describing the discovery responses that Fair Housing Council intended to move to
20 compel if meet and confer efforts were not successful. (Ex. 2 to Allen Decl., 1/11/13
21 Ltr. from Pl. to City.) Fair Housing Council and the City held two meet and confer
22 conferences on January 11, 2013 and January 16, 2013. (Allen Decl. ¶ 6.)

23 On January 15, 2013, the City supplemented its initial responses to Fair
24 Housing Council’s production of documents. (Allen Decl. ¶ 7.) The City wrote a
25 letter summarizing the City’s responses to the issues raised by Fair Housing Council
26 on January 24, 2013. (Ex. 3 to Allen Decl., 1/24/13 Ltr. from City to Pl.) The City
27 agreed to conduct a further search for documents responsive to the requests for
28 production of documents but refused to produce a privilege log. (*Id.*) Additionally,

1 in its January 24, 2012 letter, the City agreed to supplement certain responses to
2 Plaintiff's Interrogatories and described in greater detail its objections to certain
3 interrogatories and requests for admission to which it had withheld responsive
4 information.

5 On February 6, 2013, Fair Housing Council sent a follow-up discovery letter,
6 outlining the issues in dispute with respect to Fair Housing Council's Interrogatories
7 and Requests for Admission and informing the City that Plaintiff intended to compel
8 Defendant's responses to its outstanding requests for written discovery. (Ex. 4 to
9 Allen Decl., 2/6/13 Ltr. from Pl. to City.) On February 13, 2013, Fair Housing
10 Council wrote another letter to the City requesting that the City produce any
11 additional documents responsive to the document requests at issue or certify that all
12 responsive documents had been produced and produce a privilege log by February
13 21, 2013. (Ex. 5 to Allen Decl., 2/13/13 Ltr. from Pl. to City.)

14 On February 22, 2013, the City provided supplemental responses to some of
15 Fair Housing Council's Interrogatories and Requests for Admission; however, the
16 City has maintained its objection with respect to a number of Plaintiff's requests for
17 written discovery and has continued to withhold responsive information. With
18 respect to the Requests for Production, the City has not produced any additional
19 responsive documents, and has not certified that all responsive documents have been
20 produced or produced a privilege log. (Allen Decl. ¶ 11.) The specific discovery
21 requests in dispute, along with the parties' respective positions, are detailed below.

22 **B. THE CITY'S INTRODUCTORY STATEMENT**

23 Plaintiff Fair Housing Council of San Fernando Valley ("Plaintiff" or
24 "FHCSFV") seeks an order compelling the City to produce documents, or certify that
25 all responsive documents have been produced more than five months before the
26 discovery cut-off date. Plaintiff's request is premature and unnecessary. The City
27 has already produced approximately 25,000 pages of documents and is in the process
28 of making additional documents available for inspection. Further, Plaintiff has

1 ignored the City’s repeated invitations to identify any specific documents it wishes to
2 obtain to expedite their production. Plaintiff also seeks an order compelling the City
3 to respond to two requests for admission that are properly directed at defendant
4 CRA/LA, not the City, and respond to interrogatories that exceed the number
5 allowed under Rule 33. Therefore, Plaintiff’s motion should be denied.

6 **1. Nature of the Case**

7 Plaintiffs allege that the City received federal housing and community
8 development funds from HUD and the State of California and directed some of those
9 funds to the CRA/LA. Plaintiffs identify sixty-one multi-family housing projects
10 that purportedly received federal funds, but allegedly do not contain sufficient
11 accessible units. (SAC ¶¶ 184-185). Plaintiffs have named the owners of these
12 properties as the “Owner Defendants.” Plaintiffs further allege that the Owner
13 Defendants are part of a “Redevelopment Housing Program” operated by the City
14 and CRA/LA. (SAC ¶¶ 164, 184-85). The City, the CRA/LA and the Owner
15 Defendants all deny that such a program ever existed.¹ (City’s Answer (Docket No.
16 212) ¶ 164; CRA/LA’s Answer (Docket No. 213) ¶ 164; Owner Defendants’ Joint
17 Motion (Docket No. 242-1) at p. 10, n. 6).

18 **2. The City’s Efforts to Respond to the Broad Requests**

19 FHCSFV first propounded discovery requests on the City in July 2012. At the
20 time its corporate status was suspended by the Secretary of State. As a result,
21 FHCSFV lacked the legal capacity to prosecute or defend a civil action. On August
22 13, 2012, counsel for the City spoke to counsel for FHCSFV regarding the discovery
23 requests and specifically raised concerns over the broad scope of the discovery
24 requests, including that they sought information and documents dating back to June
25 15, 1990. Counsel also noted that FHCSFV’s definition of “Identify” was compound

26 _____
27 ¹ The City provided federal funds for the development of multi-family housing
28 projects on a project-by-project basis. The City objects to Plaintiffs’ attempt to create
a “Redevelopment Housing Program” because it specifically relates to the Plaintiffs’
burden of proof at trial and the scope of the discovery requests.

1 and called for several discrete pieces of information. Counsel for FHCSFV agreed to
2 consider the issues. Declaration of Jennifer Derwin ¶ 2.

3 After FHCSFV's corporate status was re-instated, FHCSFV served the
4 discovery requests at issue on October 23 and October 26, 2012. Plaintiff made no
5 attempt to address the City's objection to the term Identify, or the scope of the
6 requests. The City timely responded to the FHCSFV's discovery requests on
7 November 27 and 30, 2012. The City produced documents along with an index.
8 The City produced additional documents, along with an index, on January 15 and
9 March 12, 2013. (*See* Byrne Decl. ¶ 3, Ex. 9.)

10 On December 17, 2012, the parties met and conferred regarding Plaintiff's use
11 of the defined term "Redevelopment Housing Program." The parties scheduled a
12 telephonic conference for January 11, 2013. Counsel for FHCSFV stated that he
13 would provide a letter outlining all of FHCSFV's concerns regarding the City's
14 discovery responses by December 21, 2012, before the holidays. The City did not
15 receive a letter until the afternoon of January 8, 2013. The eleven page letter raised a
16 variety of new issues and failed to comply with Local Rule 37.1 by specifying the
17 terms of the discovery order that FHCSFV intended to seek. (*See* Byrne Decl. ¶ 4.)

18 On January 11, 2013, the parties conferred by telephone. The City raised its
19 concerns about being able to adequately respond to the issues raised for the first time
20 in the January 8th letter and informed Plaintiff of its failure to comply with the
21 requirements of Local Rule 37-1. FHCSFV reluctantly agreed to schedule a second
22 telephonic conference on January 16, 2013. (*See* Byrne Decl. ¶ 5.)

23 On January 16, 2013, the parties conferred and on January 24, 2013, the City
24 sent a letter confirming its understanding of the discovery issues, including potential
25 solutions, and requested further information from FHCSFV. (Ex. 3.)

26 On February 6, 2013, Plaintiff reworded Requests for Admission Nos. 45, 46
27 and 198. The City responded to those requests on February 22, 2013. (Ex. 12.)

28 On February 14, 2013, the City responded to Plaintiff's February 6th letter and

1 again attempted to resolve the issues surrounding Interrogatories Nos. 185 and 190.
2 The City also renewed its request that Plaintiffs identify any specific documents that
3 they sought to expedite their production. The City also stated that it would be
4 making additional documents available for inspection. (*See* Byrne Decl. ¶ 10, Ex. 7.)

5 On February 19, 2013, the City received a letter from Plaintiff dated February
6 13, 2013, raising five specific discovery issues, one of which the City believed the
7 parties had already resolved regarding the manner of production, and demanded a
8 response by February 21, 2013. On February 20, 2013, the City notified FHCSFV
9 that the letter was not received until February 19th and requested additional time to
10 respond to Plaintiff’s complaint regarding the manner of production and the new
11 legal authority from outside the Circuit. (*See* Byrne Decl. ¶ 11, Ex. 11.) On
12 February 21, 2013, counsel responded: “We will proceed with drafting our portion of
13 the joint stipulation . . .” and suggested that the City “just put your substantive
14 position in your response to our draft [joint stipulation].” (Ex. 11.)

15 On March 12, 2013, counsel for the City contacted Plaintiff regarding several
16 issues that had not been previously raised by Plaintiff and asked to meet and confer
17 with respect to the issues. Counsel noted his belief that the parties may be able to
18 resolve some of the objections if the City had a better understanding of what Plaintiff
19 actually wanted. Plaintiff declined to do so. (*See* Byrne Decl. ¶14, Ex. 14.)

20
21 **II. REQUESTS FOR PRODUCTION OF DOCUMENTS AT ISSUE**

22 **A. THE CITY’S OBJECTIONS TO THE REQUESTS FOR PRODUCTION IN GENERAL**

23 **1. Plaintiff’s Argument**

24 **a. Standards for Discovery**

25 A party can discover “any nonprivileged matter that is relevant to any party’s
26 claims or defense.” Fed. R. Civ. P. 26(b)(1). “Relevant information need not be
27 admissible at the trial if the discovery appears calculated to lead to the discovery of
28 admissible evidence.” *Id.*

1 “The party who resists discovery has the burden to show discovery should not
2 be allowed, and has the burden of clarifying, explaining, and supporting its
3 objections.” *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56
4 (C.D. Cal.2005); *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.1975)
5 (holding that under liberal discovery principles of the Federal Rules, a party resisting
6 discovery is required to carry a heavy burden to show why discovery should be
7 denied).

8 **b. The City’s Generalized Objections**

9 The City objects to nearly every one of Fair Housing Council’s requests for
10 production of documents by asserting generalized objections, including objections
11 that the requests or the documents sought are: (1) vague and ambiguous; (2)
12 irrelevant; (3) overbroad in time and scope and therefore burdensome; (3)
13 burdensome and oppressive; (4) equally available to Plaintiffs; and (5) privileged or
14 protected by the work product doctrine.

15 “[I]t is well settled that all grounds for objection must be stated with
16 specificity.” *Ramirez v. Cnty. of Los Angeles*, 251 F.R.D. 407, 409 (C.D. Cal. 2005)
17 (citing *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981)); *United States ex rel.*
18 *O’Connel v. Chapman Univ.*, 245 F.R.D. 646, 649 (C.D. Cal. 2007) (collecting
19 cases); *McLeod, Alexander, Powel & Appfel, P.C. v. Quarles*, 894 F.2d 1482, 1485
20 (5th Cir. 1990) (general objections that requests were irrelevant and burdensome
21 were insufficient to meet party’s burden to explain why discovery requests were
22 objectionable). Objections must be specific and be supported by a detailed
23 explanation why the discovery requests are improper. *See In re Folding Carton*
24 *Antitrust Litigation*, 83 F.R.D. 260, 264 (N.D. Ill. 1979) (citing *United States v. 58.*
25 *16 Acres of Land*, 66 F.R.D. 570, 572 (E.D. Ill. 1975). The failure to provide
26 specific objections may result in a waiver of objections. *See Ramirez*, 231 F.R.D. at
27 407 (citing *Allianz Ins. Co. v. Surface Specialties, Inc.*, No. 03-2470, 2005 WL
28 44534, at *2 (D. Kan. Jan. 7, 2005) (“The familiar litany of general objections,

1 including overly broad, burdensome, or oppressive, will not alone constitute a
2 successful objection to an interrogatory, nor will a general objection fulfill the
3 objecting party's burden to explain its objections.”).

4 In this case, the City cites the same litany of generalized general objections in
5 response to nearly every request for production of documents. The City has not
6 provided specific objections explaining why each particular document request is
7 objectionable.

8 **i. The City's Generalized Burdensomeness
Objections**

9 The City objects to nearly every one of Fair Housing Council's requests for
10 production of documents on the grounds of burdensomeness. But generalized and
11 conclusory objections based on burden are improper. *Panola Land Buyers Ass'n v.*
12 *Shuman*, 762 F.2d 1550, 1559 (11th Cir. 1985) (holding that recitation of expense
13 and burdensomeness are merely conclusory and do not justify objections). To
14 properly invoke a burdensomeness objection, the party resisting discovery, “must
15 show specifically how, despite the broad and liberal construction afforded the federal
16 discovery rules, each [request] is not relevant or how each is overly broad,
17 burdensome or oppressive by submitting affidavits or offering evidence revealing the
18 nature of the burden.” *Houdini, Inc. v. Gabriel*, No. CV 04-09574-GHK, 2005 WL
19 6070171, *3 (C.D. Cal. Oct. 21, 2005) (quoting *Roesberg v. Johns-Manville Corp.*,
20 85 F.R.D. 292, 296 (E.D. Pa.1980) (internal citations omitted). The party objecting
21 on the grounds of burdensomeness “has an obligation to provide sufficient detail in
22 terms of time, money and procedure required to produce the requested documents.”
23 *Cory v. Aztec Steel Bldg., Inc.*, 225 F.R.D. 667, 672 (D. Kan. 2005) (internal
24 quotation and citation omitted). In addition, a responding party must explain and/or
25 establish the basis for his objection at the time he asserts his objection. *See Allianz*
26 *Ins. Co. v. Surface Specialties, Inc.*, No. 03-2470, 2005 WL 44534, at *2 (D. Kan.
27 Jan. 7, 2005).

28 The City asserts the same burdensomeness objections to nearly every request

1 for production of document

2 The City objects to this request on the ground that it seeks documents
3 from a time period of more than twenty (20) years, it is overbroad as to
4 time and scope, would require the City to conduct an unduly
5 burdensome and oppressive investigation The City objects to this
6 request to the extent that it is overbroad and unduly burdensome in that
7 it purports to require the City to make an unreasonable and unduly
8 burdensome investigation to identify all responsive documents in the
9 possession of any employee or representative of the City, including
10 email correspondence, over a period of more than twenty (20) years
11 during which time the City has employed tens of thousands of employ.

12 Here, the City did not provide any declarations offering evidence establishing
13 the nature of the burden it would incur in responding to each of the requests for
14 production of documents at the time it served its responses. By failing to provide
15 specific information about the nature of the burden imposed by responding to the
16 requests for production of documents, Fair Housing Council was denied the
17 opportunity to challenge the objection.

18 The minimal information regarding the burden imposed on the City does not
19 apply to Fair Housing Council's requests for production of documents. For example,
20 responding to Fair Housing Council's requests does not require the City to search
21 every employee's records for the past 20 years. Most of the relevant responsive
22 documents are likely to be located in a few City departments such as the Los Angeles
23 Housing Department or the Community Development Department.

24 In addition, the temporal scope of Fair Housing Council's requests is proper.
25 Fair Housing Council defined the temporal scope of its requests for production of
26 documents as June 15, 1990 to the present. (Allen Decl. ¶ 14.) Based on the
27 discovery conducted thus far, the City first provided funding for a housing project in
28 the Community Redevelopment Agency's housing program in 1995 and continued to
fund such housing until 2012. (See Allen Decl. ¶ 15.) The temporal scope of
Plaintiff's discovery is appropriate in this case alleging systemic failure to provide
program access in violation of Section 504 and Title II of the Americans with
Disabilities Act ("ADA"). See *Lopez v. San Francisco Unified Sch. Dist.*, No. C-99-

1 3260 SI, 2002 WL 34721347 at*2-3 (N.D. Cal. Sept. 9, 2002) (allowing a temporal
2 scope dating back to 1977, the effective date of Section 504, in a systemic case
3 alleging denial of program access by a school district).

4 Even if the City could make a showing that the discovery was burdensome,
5 burdensomeness alone is insufficient where the requested material is relevant. *See*
6 *Bayer Corp. and Subsidiaries v. United States*, 850 F. Supp. 2d 522, 539 (W.D. Pa.
7 2012) (“Merely because compliance with a ‘Request for Production’ would be costly
8 or time-consuming is not ordinarily sufficient reason to grant a protective order
9 where the requested material is relevant and necessary to the discovery of
10 evidence.”) (citing *Luey v. Sterling Drug, Inc.*, 240 F. Supp. 632, 634-5 (W.D. Mich.
11 1965).

12 **2. The City’s Argument**

13 **a. Plaintiff Did Not Meet and Confer with the City** 14 **Regarding the City’s Purported “Generalized** **Objections”**

15 Plaintiff has not properly raised its allegation that the City improperly lodged
16 generalized objections in response to the document requests, nor is it clear what
17 relief Plaintiff seeks in this section of the Joint Stipulation. As a preliminary matter,
18 during the meet and confer process, Plaintiff only raised this objection with respect
19 to the City’s response to Request Nos. 35, 44, 45 and 47. (Ex. 1.) If Plaintiff had a
20 complaint with respect to the City’s objections to the balance of the document
21 requests, Plaintiff should have raised the issue so that the parties could discuss the
22 City’s objections to each document request during the meet and confer process.
23 After receiving the proposed Joint Stipulation and learning that Plaintiff took issue
24 with the City’s objections, the City raised Plaintiff’s failure to do so and asked to
25 meet and confer to see if the issue could be resolved or at least narrow the document
26 requests at issue. Plaintiff refused to do so. (Byrne Decl. ¶ 14, Ex. 14.)

27
28

b. The City Has Not Relied on Improper General Objections

1
2 In the Joint Stipulation, Plaintiff asserts that the City objected to nearly every
3 request for production by asserting generalized objections, including objections that
4 the requests are “(1) vague and ambiguous; (2) irrelevant; (3) overbroad in time and
5 scope and therefore burdensome; (3) burdensome and oppressive; (4) equally
6 available to Plaintiffs; and (5) privileged or protected by the work product doctrine.”
7 Plaintiff’s summary of the objections is misleading. The City did not rely on general
8 boilerplate objections as suggested by Plaintiff. The Document Requests seek forty-
9 seven broad categories of documents based upon thirty extremely broad definitions
10 and for the time period from June of 1990 to the present. In response, the City set
11 forth appropriate objections to each of the requests. For example, Request Number 6
12 sought:

13 Any and all documents, including, but not limited to statutes,
14 ordinances, regulations, policies, procedures, guidelines, forms, and/or
15 certifications, concerning the distribution of Federal housing and
16 community development funds to any entity.

17 The City responded:

18 The City objects to this request to the extent that it is vague and
19 ambiguous as to “policies procedures, guidelines, forms, and/or
20 certifications.” The City objects to this request on the ground that it
21 seeks documents from a time period of more than twenty (20) years, it is
22 overbroad as to time and scope, would require the City to conduct an
23 unduly burdensome and oppressive investigation and seeks documents
24 that are not relevant to this litigation and not reasonably calculated to
25 lead to the discovery of admissible evidence. The City objects to this
26 request to the extent that it is overbroad and unduly burdensome in that
27 it purports to require the City to make an unreasonable and unduly
28 burdensome investigation to identify all responsive documents in the

1 possession of any employee or representative of the City, including
2 email correspondence, over a period of more than twenty (20) years
3 during which time the City has employed tens of thousands of
4 employees. The City objects to this request to the extent that it seeks
5 information pertaining to third-parties, including personnel records, and
6 financial records, the disclosure of which would constitute an
7 unwarranted invasion of the affected parties' constitutional, statutory
8 and/or common law rights to personal privacy and confidentiality. The
9 City objects to this request to the extent that it seeks information
10 protected from disclosure by the attorney-client privilege and/or
11 attorney work product doctrine, deliberative process and government
12 information privilege, or any other applicable privilege, and the City
13 declines to produce such information. The City objects to this request to
14 the extent that it seeks documents that are already in Plaintiff's
15 possession, are publically available or are obtainable from other sources
16 that are more convenient and less burdensome or equally available to
17 Plaintiff. Subject to and without waiving the foregoing objections, the
18 City responds as follows: In response to the Requests the City will
19 produce the documents listed on Attachment A. Furthermore, additional
20 information responsive to this request is publically available through the
21 City Clerk's website at
22 <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm>.

23 Each of the stated objections was appropriate in light of how the request was
24 framed. For example, by seeking "any and all documents" "concerning the
25 distribution of Federal housing and community development funds to any entity," the
26 request potentially called for privileged information such as correspondence between
27 the City and its counsel with respect to the distribution of funds. The objection was
28 included to preserve the objection if such privileged information was located that

1 otherwise would have been responsive to the request. Similarly, the request
2 potentially called for confidential financial information belonging to third parties to
3 the extent that an application submitted for such funding contained confidential
4 financial information with respect to the applicant. On the other hand, by seeking
5 “statutes, ordinances, regulations,” the request sought information that was publicly
6 and equally available to Plaintiff. The basis for the City’s objection that the request
7 was overbroad and unduly burdensome is explained below. Notwithstanding its
8 objections, the City produced documents in response to the request and directed
9 Plaintiff to the City Clerk’s website where Plaintiff could obtain additional
10 information. During the meet and confer process, counsel informed Plaintiff that the
11 City had not completed its document production and additional documents would be
12 produced.

13 **c. The City Explained the Basis for its Burdensome
14 Objections**

15 Plaintiff quotes a portion of the City’s burdensome objections. The full
16 objection states:

17 The City objects to this request on the ground that it seeks documents
18 from a time period of more than twenty (20) years, it is overbroad as to
19 time and scope, would require the City to conduct an unduly
20 burdensome and oppressive investigation and seeks documents that are
21 not relevant to this litigation and not reasonably calculated to lead to the
22 discovery of admissible evidence. The City objects to this request to the
23 extent that it is overbroad and unduly burdensome in that it purports to
24 require the City to make an unreasonable and unduly burdensome
25 investigation to identify all responsive documents in the possession of
26 any employee or representative of the City, including email
27 correspondence, over a period of more than twenty (20) years during
28 which time the City has employed tens of thousands of employees.

Thus, the objection itself explains the nature of the burden imposed by the breadth

1 and scope of the request. Specifically, the Document Requests called for documents
2 during the time period of June 15, 1990 to the present. (Byrne Decl. ¶ 2.) It is
3 unduly burdensome to require a party to search for documents covering a time period
4 of more than twenty years and seeks information that is not relevant to the lawsuit.
5 Further, the Plaintiff defined the City to include all employees. (Byrne Decl. ¶ 2.)
6 Finally, Plaintiff did not limit the request to any particular department(s) within the
7 City purporting to require the City to search Citywide for responsive documents.
8 Such unnecessarily broad and unlimited requests are unduly burdensome and the
9 City properly set forth the basis of its objection.

10
11 **d. The City Is Continuing to Search for Responsive Documents**

12 Notwithstanding its objections to the Document Requests, to date, the City has
13 produced approximately 25,000 pages of documents and directed Plaintiff to
14 additional documents that are available for inspection at the Department of Building
15 and Safety. The City is also in the process of making construction and finance files
16 for the projects identified in the Second Amended Complaint available for
17 inspection, which will be available once it resolves issues with respect to confidential
18 third party information that is contained within the files. During the meet and confer
19 process, the City made it clear that its document production was not yet complete
20 and that additional documents would be produced.

21 Plaintiff complains that the City has not provided affidavits supporting its
22 burdensome objection. Plaintiff never asked for affidavits during the meet and
23 confer process. The parties should meet and confer regarding the issue after the City
24 completes its documents production if there are any areas where Plaintiff seeks
25 additional documents that the City asserts in cannot provide without undue burden.

26
27
28

1 **B. DOCUMENT REQUEST NOS. 35 AND 44**

2 **Request No. 35:** Any and all documents, including, but not limited to, survey and
3 audit reports, checklists, documents reflecting communications with inspectors or
4 any other person or entity about compliance reports, including, but not limited to
5 scheduling and report status, reflecting an assessment of which units within the
6 Redevelopment Housing Program met or meet the requirements of the Uniform
7 Federal Accessibility Standards (“UFAS”).

8 **Response to Request No. 35:**

9 The City objects to this request to the extent that it is vague and ambiguous.
10 The City objects to this request on the ground that it seeks documents from a time
11 period more than twenty (20) years, it is overbroad as to time and scope, would
12 require the City to conduct an unduly burdensome and oppressive investigation and
13 seeks documents that are not relevant to this litigation and not reasonably calculated
14 to lead to the discovery of admissible evidence. The City objects to this request to
15 the extent that it is overbroad and unduly burdensome in that it purports to require
16 the City to make an unreasonable and unduly burdensome investigation to identify
17 all responsive documents in the possession of any employee or representative of the
18 City, including email correspondence, over a period of more than twenty (20) years
19 during which time the City has employed tens of thousands of employees. The City
20 objects to this request to the extent that it seeks information that is not in the
21 possession, custody or control of the City. The City objects to Plaintiff’s definition of
22 “Redevelopment Housing Program” as overbroad, vague and ambiguous and seeking
23 information not relevant to this lawsuit. The City provided federal funds to CRA/LA
24 for the development multi-family housing projects on a project-by-project basis. In a
25 good faith attempt to respond to the Requests, the City will interpret the phrase as
26 referring to those multi-family housing projects for which the City provided federal
27 funds to the CRA/LA for the development of the project. The City objects to this
28 request to the extent that it seeks information protected from disclosure by the

1 attorney-client privilege and/or attorney work product doctrine, deliberative process
2 and government information privilege, or any other applicable privilege, and the City
3 declines to produce such information. The City objects to this request to the extent
4 that it seeks documents that are already in Plaintiff's possession, are publically
5 available or are obtainable from other sources that are more convenient and less
6 burdensome or equally available to Plaintiff.

7 **Request No. 44:** Any and all documents relating to any statements given by any
8 person that relate to this lawsuit in any manner.

9 **Response to Request No. 44:**

10 The City objects to this request to the extent that it is vague and ambiguous as
11 to "statements." The City objects to this request on the ground that it seeks
12 documents from a time period of almost twenty (20) years, it is overbroad as to time
13 and scope, would require the City to conduct an unduly burdensome and oppressive
14 investigation and seeks documents that are not relevant to this litigation and not
15 reasonably calculated to lead to the discovery of admissible evidence. The City
16 objects to this request to the extent that it is overbroad and unduly burdensome in
17 that it purports to require the City to make an unreasonable and unduly burdensome
18 investigation to identify all responsive documents in the possession of any employee
19 or representative of the City, including email correspondence, over a period of more
20 than twenty (20) years during which time the City has employed tens of thousands of
21 employees. The City objects to this request to the extent that it seeks information that
22 is not in the possession, custody or control of the City. The City objects to this
23 request to the extent it seeks information from the CRA/LA. On February 1, 2012,
24 the CRA was dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA
25 Designated Local Authority (not the City) became successor to the CRA/LA. The
26 City objects to this request to the extent that it seeks information protected from
27 disclosure by the attorney-client privilege and/or attorney work product doctrine,
28 deliberative process and government information privilege, or any other applicable

1 privilege, and the City declines to produce such information. The City objects to this
2 request to the extent that it seeks documents that are already in Plaintiff's possession,
3 are publically available or are obtainable from other sources that are more
4 convenient and less burdensome or equally available to Plaintiff.

5
6 **1. Plaintiff's Argument**

7 **a. The City Waived Its Claim of Privilege to Requests Nos. 35 and 44 by Failing to Produce a Timely Privilege Log**

8 Plaintiff Fair Housing Council moves to compel responses to Document
9 Requests Nos. 35 and 44. The City asserts generalized attorney-client privilege or
10 the work product doctrine, deliberative process, and government information
11 privilege in response to Document Request Nos. 35 and 44 but has refused to
12 produce a privilege log.

13 Under Rule 26(b)(5) of the Federal Rules of Civil Procedure, a party that
14 "withholds discovery materials because of a claim of privilege or work product
15 protection must notify the other party that it is withholding material." *Ramirez*, 231
16 F.R.D. at 410 (citing 1993 Notes to Adv. Comm. to Fed. R. Civ. P. 26(b)). A party
17 withholding information "must provide sufficient information (i.e. a privilege log) to
18 enable the other party to evaluate the applicability of the privilege or protection." *Id.*
19 (citing 1993 Notes to Adv. Comm. to Fed. R. Civ. P. 26(b) and *Clarke v. Am.*
20 *Commerce Nat'l Bank*, 974 F.2d 127, 129 (9th Cir. 1992)). Providing a privilege log
21 has become "an almost universal method of asserting privilege under the Federal
22 Rules." *Caudle v. District of Columbia*, 263 F.R.D. 29, 35 (D.D.C. 2009).

23 As the party asserting the privilege or work product objection, the City must
24 provide sufficient information to establish that each element of the privilege or
25 immunity applies. *Peat, Marwick, Mitchell & Co. v. W.*, 748 F.2d 540, 542 (10th
26 Cir. 1984); *Kidwiler v. Progressive Paloverde Ins. Co.*, 192 F.R.D. 536, 542 (N.D.
27 W. Va. 2000). "Failure to do so is not excused because the document is later shown
28 to be one which would have been privileged if a timely showing had been made."

1 *Peat, Marwick, Mitchell & Co.*, 748 F.2d at 542; *see Safeco Ins. Co. of Am. v.*
2 *Rawstrom*, 183 F.R.D. 668, 670 (C.D. Cal. 1998) (objections to interrogatories
3 waived where they were interposed for the first time in supplemental responses).
4 The applicability of a privilege turns not only on the nature of the document but “on
5 the adequacy and timeliness of the showing.” *Peat, Marwick, Mitchell & Co.*, 748
6 F.2d at 542.

7 In this case, the City failed to produce a privilege log or other information
8 identifying each element of the privilege or work product doctrine and therefore its
9 objections based on privilege are waived.

10 The City contends that it is not required to produce a privilege log because the
11 documents are privileged and therefore not subject to discovery. The City’s
12 argument is nonsensical and circular. The City must provide a privilege log to
13 properly assert a privilege and allow Fair Housing Council to evaluate the
14 applicability of the privilege or the protection. If a party could be absolved of any
15 responsibility to produce documents based on a blanket assertion of privilege and
16 without producing a privilege log, assertions of privilege could never be challenged
17 by the propounding party or reviewed by courts.

18

19 **b. The City’s Generalized Objections to Requests 35 and
20 44 Should Be Overruled**

21 **Request No. 35:** Fair Housing Council’s Request No. 35 requested “[a]ny and
22 all documents . . . reflecting an assessment of which units within the Redevelopment
23 Housing Program met or meet the requirements of the Uniform Federal Accessibility
24 Standards(“UFAS”).” Fair Housing Council’s request also described examples of
25 documents that might be responsive to this request including survey and audit
26 compliance reports.

27 The City objected to Fair Housing Council’s requests by asserting general
28 objections and refused to produce responsive documents. The City’s general

1 objections are improper objections and the City failed to support its objections. *See*
2 *United States ex rel O’Connell*, 245 F.R.D. at 649; (*supra* Part II.B at 5-8).

3 Responsive documents to Fair Housing Council’s request are highly relevant.
4 Plaintiffs have alleged that the City and the DLA² have failed to make the DLA’s
5 housing program accessible to people with disabilities. The Ninth Circuit has
6 recognized that “the focus of the prohibition in § 504 is ‘whether disabled persons
7 were denied “meaningful access.”” *Mark H. v. Lemahieu*, 513 F.3d 922, 937 (9th
8 Cir. 2008) (quoting *Crowder v. Kitagawa*, 81 F.3d 1480,1484 (9th Cir. 1996). HUD
9 § 504 regulations describe specific architectural and other requirements that apply to
10 housing projects that received federal financial assistance. For example, HUD’s
11 regulations require that at least five percent of the total dwelling units in new
12 multifamily housing projects receiving federal financial assistance meet the
13 requirements set forth in the Uniform Federal Accessibility Standards (“UFAS”) and
14 that at least an additional two percent must be accessible per UFAS requirements for
15 people with hearing or vision impairments. 24 C.F.R. § 8.22(a) & (b). Whether
16 housing projects within the DLA’s housing program that received federal funds from
17 the City meet UFAS standards is therefore relevant to whether the City and the DLA
18 have made the housing program meaningfully accessible to people with disabilities.

19 During the meet and confer process, Fair Housing Council requested that the
20 City produce a privilege log and produce all non-privileged documents responsive to
21 Document Request Nos. 35 and 44. (Ex. 5 to Allen Decl.) The City agreed to search
22 for additional responsive documents (*see* Ex. 3 to Allen Decl.) but it has failed to
23 produce additional non-privileged, responsive documents, certify that all responsive
24 documents have been produced or provide a privilege log. (Allen Decl. ¶ 10.)

25 By failing to timely provide a privilege log at the time of its responses, the

26 ² The DLA is the successor to the Community Redevelopment Agency of the City of
27 Los Angeles. The Community Redevelopment Agency was abolished by statute in
28 February 2012. For consistency, Fair Housing Council refers to DLA even when
events occurred before February 2012.

1 City has waived any privileges and Fair Housing Council requests that the Court
2 compel the City to produce all responsive documents to Request No. 35.

3 **Request No. 44:** Request No. 44 seeks statements relating to this lawsuit. The
4 City again asserted improper general objections in response to Request No. 44. By
5 its very terms, statements relating to this lawsuit are “relevant to any party’s claims
6 or defense.” Fed. R. Civ. P. 26(b). Although documents responsive to this request
7 may be protected by the attorney-client privilege or the work product doctrine, the
8 City has refused to provide a timely privilege log. Fair Housing Council seeks an
9 order compelling the City to provide a privilege log and to produce any non-
10 privileged documents responsive to this request.

11 **2. The City’s Argument**

12 The City acknowledges the need for a party to provide sufficient information
13 to support the assertion of privilege when documents are withheld from production
14 on the grounds of privilege. However, the City has not identified any documents that
15 are responsive to the Document Requests but are being withheld on the grounds of
16 privilege. If and when any such privileged documents are withheld from production,
17 the City will provide a privilege log. Here, Plaintiff seeks a privilege log identifying
18 documents prepared by, or at the direction of, counsel for the City in connection with
19 its representation of the City in this matter, i.e., counsel’s litigation files, including
20 documents related to a consultant hired by the City in connection with its defense of
21 this matter. The City asserts that these documents are not discoverable and are not
22 the proper subject of a privilege log.

23 **Request No. 35**

24 Request No. 35 seeks documents reflecting an assessment of which units meet
25 the Uniform Federal Accessibility Standards. During the parties’ teleconference on
26 January 16, 2013, Plaintiff’s counsel specifically noted that he was aware that the
27 City had hired a third party to conduct inspections of the units for UFAS compliance
28 and asserted that Plaintiff was entitled to the results of those inspections in response

1 to Request No. 35. (Byrne Decl. ¶ 6.) Counsel for the City explained that the City
2 hired the consultant in accordance with Rule 26(b)(4) and in accordance with FRCP
3 26(b)(4)(D), a party may not, by interrogatories or deposition, “discover facts known
4 or opinions held by an expert who has been retained or specially employed by
5 another party in anticipation of litigation or to prepare for trial and who is not
6 expected to be called as a witness at trial.” *See Feist v. RCN Corporation* 2012 WL
7 5412362 *3 (N.D. Cal. Nov. 6, 2012) (no discovery concerning a non-testifying
8 expert is permissible). Plaintiff questioned who hired the consultant and the City
9 explained that the third party consultant had been hired by counsel and was
10 considered a non-testifying expert. (Byrne Decl. ¶ 6.)

11 The Advisory Committee Notes to the Rule 26 make clear that the obligation
12 to provide “pertinent information concerning withheld privileged materials applies
13 only to items ‘otherwise discoverable.’” It is clear from the parties’ discussion on
14 January 16, that Plaintiff is attempting to make the City reveal documents provided
15 by their non-testifying expert, an area the Federal Rules of Civil Procedure has never
16 considered “otherwise discoverable.” Plaintiff’s demand for a privilege log, or lose
17 the privilege due to the failure to produce such a log should be disallowed by the
18 Court, because it is clear that the Plaintiff is seeking information that is not otherwise
19 discoverable.

20 The Plaintiff’s argument regarding the responsive nature of the requested
21 documents is misplaced. Whether the documents they seek are responsive is not the
22 legal standard set forth in Rule 26(b)(4)(D) and case law. Plaintiff’s request to the
23 Court seeks to bypass well established law from both this Circuit that barring a
24 showing of exceptional circumstance, Plaintiff is not entitled to the material that it
25 seeks, and such material is shielded from discovery. *See FRCP 26(b); Plymovent*
26 *Corp. v. Air Tech Solutions Inc.*, 243 F.R.D. 139, 143 (D.N.J. 2007) (“Rule
27 26(b)(4)(B) thus creates a safe harbor whereby facts and opinions of nontestifying,
28 consulting experts are shielded from discovery except upon a showing of exceptional

1 circumstances. Indeed, some courts have construed 26(b)(4)(B) as creating a
2 privilege against disclosure.”). The purpose of the exceptional circumstances rule is
3 to prevent a party from replacing the work of its own experts with that of its
4 opponent and the party seeking discovery has the burden to prove that the required
5 exceptional circumstances exist. *See Hartford Fire Ins. Co. v. Pure Air on the Lake*
6 *Ltd. Partnership*, 154 F.R.D. 202, 207-208 (N.D. Ind. 1993) (parties failed to show
7 exceptional circumstances necessary to justify disclosure of consulting experts
8 report); *Bank of Brussels Lambert v. Chase Manhattan Bank*, 175 F.R.D. 34, 44,
9 (S.D.N.Y 1997) (party seeking discovery of non-testifying expert carries burden of
10 showing exceptional circumstances).

11 Request No. 44

12 Request No. 44 seeks any statements given by any person that relate to the
13 lawsuit in any manner. Putting aside the City’s objections to the broadness of the
14 request and the vagueness of the term “statements,” during the January 16th
15 teleconference and in its January 24th letter, the City informed Plaintiff that the only
16 potentially responsive material the City had was attorney-client privilege/work
17 product information that was created by or at the direction of counsel after the
18 lawsuit was filed, which is not otherwise discoverable material. (Byrne Decl. ¶ 6, Ex.
19 3, p. 6.) The work-product doctrine specifically protects “written statements, private
20 memoranda and personal recollections prepared or formed by an adverse party’s
21 counsel in the course of his legal duties.” *Hickman v. Taylor*, 329 U.S. 495, 510
22 (1947); *see also* Fed.R.Civ.P. 26(b)(3)(A) (“Ordinarily, a party may not discover
23 documents and tangible things that are prepared in anticipation of litigation or for
24 trial by or for another party or its representative (including the other party’s attorney,
25 consultant, surety, indemnitor, insurer, or agent”). The City further informed
26 Plaintiff that it would continue to search for responsive documents that were not
27 privileged and would produce non-privileged documents, if any were located, or
28 provide a privilege log for any privileged documents that were located but withheld

1 from production. (Ex. 3, p.6.)

2 The City requests that the Court deny Plaintiff's request that the Court order
3 the City to produce all documents responsive to Request No. 35. The documents
4 sought by Plaintiff are privileged and the City did not waive its privilege by not
5 providing a privilege log for any documents created by, or at the direction of,
6 counsel for the City after the lawsuit was filed in connection with its representation
7 of the City in this lawsuit – litigation files are not the proper subject of a privilege
8 log. The City also requests that the Court deny Plaintiff's request that the City be
9 ordered to provide a privilege log and ordered to produce any non-privileged
10 documents in response to Request No. 44 because the City has already agreed to do
11 so to the extent that it locates any non-privileged documents, or discovers any
12 documents that fall within the scope of discovery, but are withheld from production
13 on the grounds of privilege.

14

15 **A. DOCUMENT REQUEST NOS. 4, 7-17, 19, 21, 23-27, 29, 30, 32
and 46**

16 **Request No. 4:** Any and all documents reflecting the City's obligations with respect
17 to accessibility in the Redevelopment Housing Program.

18 **Response to Request No. 4:**

19 The City objects to this request on the ground that it seeks documents from a
20 time period of more than twenty (20) years, it is overbroad as to time and scope,
21 would require the City to conduct an unduly burdensome and oppressive
22 investigation and seeks documents that are not relevant to this litigation and not
23 reasonably calculated to lead to the discovery of admissible evidence. The City
24 objects to this request to the extent that it is overbroad and unduly burdensome in
25 that it purports to require the City to make an unreasonable and unduly burdensome
26 investigation to identify all responsive documents in the possession of any employee
27 or representative of the City, including email correspondence, over a period of more
28 than twenty (20) years during which time the City has employed tens of thousands of

1 employees. The City objects to this request to the extent that it seeks information
2 pertaining to third-parties, including personnel records, and financial records, the
3 disclosure of which would constitute an unwarranted invasion of the affected parties'
4 constitutional, statutory and/or common law rights to personal privacy and
5 confidentiality. The City objects to this request to the extent that it seeks information
6 protected from disclosure by the attorney-client privilege and/or attorney work
7 product doctrine, deliberative process and government information privilege, or any
8 other applicable privilege, and the City declines to produce such information. The
9 City objects to Plaintiff's definition of "Redevelopment Housing Program" as
10 overbroad, vague and ambiguous and seeking information not relevant to this
11 lawsuit. The City provided federal funds to CRA/LA for the development multi-
12 family housing projects on a project by project basis. In a good faith attempt to
13 respond to the Request, the City will interpret the phrase as referring to those multi-
14 family housing projects for which the City provided federal funds to the CRA/LA for
15 the development of the project.

16 Subject to and without waiving the foregoing objections, the City responds as
17 follows: In response to the Requests the City will produce the documents listed on
18 Attachment A.

19 **Request No. 7:** Any and all documents reflecting communications, including, but
20 not limited to, e-mail correspondence; letters; minutes, logs, and/or notes
21 memorializing any telephone communications; and/or minutes, logs, and/or notes
22 memorializing any meetings or in-person conversations, whether formal or informal,
23 between you and the CRA/LA concerning the need for accessible housing within the
24 City of Los Angeles.

25 **Response to Request No. 7:**

26 The City objects to this request on the ground that it seeks documents from a
27 time period of more than twenty (20) years, it is overbroad as to time and scope,
28 would require the City to conduct an unduly burdensome and oppressive

1 investigation and seeks documents that are not relevant to this litigation and not
2 reasonably calculated to lead to the discovery of admissible evidence. The City
3 objects to this request to the extent that it is overbroad and unduly burdensome in
4 that it purports to require the City to make an unreasonable and unduly burdensome
5 investigation to identify all responsive documents in the possession of any employee
6 or representative of the City, including email correspondence, over a period of more
7 than twenty (20) years during which time the City has employed tens of thousands of
8 employees. The City objects to this request to the extent that it seeks information that
9 is not in the possession, custody or control of the City. The City objects to this
10 request to the extent it seeks information from the CRA/LA. On February 1, 2012,
11 the CRA was dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA
12 Designated Local Authority (not the City) became successor to the CRA/LA. The
13 City objects to this request to the extent that it seeks information protected from
14 disclosure by the attorney-client privilege and/or attorney work product doctrine,
15 deliberative process and government information privilege, or any other applicable
16 privilege, and the City declines to produce such information.

17 Subject to and without waiving the foregoing objections, the City responds as
18 follows: In response to the Requests the City will produce the documents listed on
19 Attachment A.

20 **Request No. 8:** Any and all documents reflecting communications, including, but
21 not limited to, e-mail correspondence; letters; minutes, logs, and/or notes
22 memorializing any telephone communications; and/or minutes, logs, and/or notes
23 memorializing any meetings or in-person conversations, whether formal or informal,
24 between you and the CRA/LA concerning accessibility with respect to the
25 Redevelopment Housing Program.

26 **Response to Request No. 8:**

27 The City objects to this request to the extent that it is vague and ambiguous.
28 The City objects to this request on the ground that it seeks documents from a time

1 period of more than twenty (20) years, it is overbroad as to time and scope, would
2 require the City to conduct an unduly burdensome and oppressive investigation and
3 seeks documents that are not relevant to this litigation and not reasonably calculated
4 to lead to the discovery of admissible evidence. The City objects to this request to
5 the extent that it is overbroad and unduly burdensome in that it purports to require
6 the City to make an unreasonable and unduly burdensome investigation to identify
7 all responsive documents in the possession of any employee or representative of the
8 City, including email correspondence, over a period of more than twenty (20) years
9 during which time the City has employed tens of thousands of employees. The City
10 objects to this request to the extent that it seeks information that is not in the
11 possession, custody or control of the City. The City objects to this request to the
12 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
13 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
14 Local Authority (not the City) became successor to the CRA/LA. The City objects to
15 this request to the extent that it seeks information protected from disclosure by the
16 attorney-client privilege and/or attorney work product doctrine, deliberative process
17 and government information privilege, or any other applicable privilege, and the City
18 declines to produce such information. The City objects to Plaintiff's definition of
19 "Redevelopment Housing Program" as overbroad, vague and ambiguous and seeking
20 information not relevant to this lawsuit. The City provided federal funds to CRA/LA
21 for the development multi-family housing projects on a project by project basis. In a
22 good faith attempt to respond to the Request, the City will interpret the phrase as
23 referring to those multi-family housing projects for which the City provided federal
24 funds to the CRA/LA for the development of the project.

25 Subject to and without waiving the foregoing objections, the City responds as
26 follows: In response to the Requests the City will produce the documents listed on
27 Attachment A.

28 **Request No. 9:** Any and all documents reflecting communications, including, but

1 not limited to, e-mail correspondence; letters; minutes, logs, and/or notes
2 memorializing any telephone communications; and/or minutes, logs, and/or notes
3 memorializing any meetings or in-person conversations, whether formal or informal,
4 between you and the CRA/LA concerning requests for or receipt of federal and state
5 funds to support housing development and rehabilitation.

6 **Response to Request No. 9:**

7 The City objects to this request on the ground that it seeks documents from a
8 time period of more than twenty (20) years, it is overbroad as to time and scope,
9 would require the City to conduct an unduly burdensome and oppressive
10 investigation and seeks documents that are not relevant to this litigation and not
11 reasonably calculated to lead to the discovery of admissible evidence. The City
12 objects to this request to the extent that it is overbroad and unduly burdensome in
13 that it purports to require the City to make an unreasonable and unduly burdensome
14 investigation to identify all responsive documents in the possession of any employee
15 or representative of the City, including email correspondence, over a period of more
16 than twenty (20) years during which time the City has employed tens of thousands of
17 employees. The City objects to this request to the extent that it seeks information that
18 is not in the possession, custody or control of the City. The City objects to this
19 request to the extent it seeks information from the CRA/LA. On February 1, 2012,
20 the CRA was dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA
21 Designated Local Authority (not the City) became successor to the CRA/LA. The
22 City objects to this request to the extent that it seeks information protected from
23 disclosure by the attorney-client privilege and/or attorney work product doctrine,
24 deliberative process and government information privilege, or any other applicable
25 privilege, and the City declines to produce such information.

26 Subject to and without waiving the foregoing objections, the City responds as
27 follows: In response to the Requests the City will produce the documents listed on
28 Attachment A.

1 **Request No. 10:** Any and all documents reflecting communications, including, but
2 not limited to, e-mail correspondence; letters; minutes, logs, and/or notes
3 memorializing any telephone communications; and/or minutes, logs, and/or notes
4 memorializing any meetings or in-person conversations, whether formal or informal,
5 between you and the CRA/LA concerning accessibility obligations in housing
6 imposed by Section 504 of the Rehabilitation Act, the Americans with Disabilities
7 Act, the Federal Fair Housing Act, the California Fair Employment and Housing Act,
8 and/or California Government Code § 11135.

9 **Response to Request No. 10:**

10 The City objects to this request on the ground that it seeks documents from a
11 time period of more than twenty (20) years, it is overbroad as to time and scope,
12 would require the City to conduct an unduly burdensome and oppressive
13 investigation and seeks documents that are not relevant to this litigation and not
14 reasonably calculated to lead to the discovery of admissible evidence. The City
15 objects to this request to the extent that it is overbroad and unduly burdensome in
16 that it purports to require the City to make an unreasonable and unduly burdensome
17 investigation to identify all responsive documents in the possession of any employee
18 or representative of the City, including email correspondence, over a period of more
19 than twenty (20) years during which time the City has employed tens of thousands of
20 employees. The City objects to this request to the extent that it seeks information that
21 is not in the possession, custody or control of the City. The City objects to this
22 request to the extent it seeks information from the CRA/LA. On February 1, 2012,
23 the CRA was dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA
24 Designated Local Authority (not the City) became successor to the CRA/LA. The
25 City objects to this request to the extent that it seeks information protected from
26 disclosure by the attorney-client privilege and/or attorney work product doctrine,
27 deliberative process and government information privilege, or any other applicable
28 privilege, and the City declines to produce such information.

1 Subject to and without waiving the foregoing objections, the City responds as
2 follows: In response to the Requests the City will produce the documents listed on
3 Attachment A.

4 **Request No. 11:** Any and all documents reflecting communications, including, but
5 not limited to, e-mail correspondence; letters; minutes, logs, or notes memorializing
6 any telephone communications; and/or minutes, logs, or notes memorializing any
7 meetings or in-person conversations, whether formal or informal, between you and
8 the CRA/LA concerning the City's, the CRA/LA's, and/or any Subrecipient's
9 compliance with Section 504 of the Rehabilitation Act, the Americans with
10 Disabilities Act, the Federal Fair Housing Act, the California Fair Employment and
11 Housing Act, and/or California Government Code § 11135.

12 **Response to Request No. 11:**

13 The City objects to this request to the extent that it is vague and ambiguous.
14 The City objects to this request on the ground that it seeks documents from a time
15 period of more than twenty (20) years, it is overbroad as to time and scope, would
16 require the City to conduct an unduly burdensome and oppressive investigation and
17 seeks documents that are not relevant to this litigation and not reasonably calculated
18 to lead to the discovery of admissible evidence. The City objects to this request to
19 the extent that it is overbroad and unduly burdensome in that it purports to require
20 the City to make an unreasonable and unduly burdensome investigation to identify
21 all responsive documents in the possession of any employee or representative of the
22 City, including email correspondence, over a period of more than twenty (20) years
23 during which time the City has employed tens of thousands of employees. The City
24 objects to this request to the extent that it seeks information that is not in the
25 possession, custody or control of the City. The City objects to this request to the
26 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
27 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
28 Local Authority (not the City) became successor to the CRA/LA. The City objects to

1 this request to the extent that it seeks information protected from disclosure by the
2 attorney-client privilege and/or attorney work product doctrine, deliberative process
3 and government information privilege, or any other applicable privilege, and the City
4 declines to produce such information.

5 Subject to and without waiving the foregoing objections, the City responds as
6 follows: In response to the Requests the City will produce the documents listed on
7 Attachment A.

8 **Request No. 12:** Any and all documents, including, but not limited to, e-mail
9 correspondence; letters; minutes, logs, and/or notes memorializing any telephone
10 communications; minutes, logs, and/or notes memorializing any meetings or in-
11 person conversations, whether formal or informal; contracts; agreements; loan and
12 financing agreements or documents; disposition and development loan agreements;
13 owner participation agreements; covenants to any such agreements; documents of
14 title; notes; deeds of trust; performance deeds of trust; certificates of compliance;
15 plans and specifications; investigation reports, surveys, and/or audits, given to,
16 received from, or relating to, any Owner Defendant(s) concerning the need for
17 accessible housing within the City of Los Angeles.

18 **Response to Request No. 12:**

19 The City objects to this request on the ground that it seeks documents from a
20 time period of more than twenty (20) years, it is overbroad as to time and scope,
21 would require the City to conduct an unduly burdensome and oppressive
22 investigation and seeks documents that are not relevant to this litigation and not
23 reasonably calculated to lead to the discovery of admissible evidence. The City
24 objects to this request to the extent that it is overbroad and unduly burdensome in
25 that it purports to require the City to make an unreasonable unduly burdensome
26 investigation to identify all responsive documents in the possession of any employee
27 or representative of the City, including email correspondence, over a period of more
28 than twenty (20) years during which time the City has employed tens of thousands of

1 employees. The City objects to this request to the extent that it seeks information that
2 is not in the possession, custody or control of the City. The City objects to the
3 Requests to the extent that they seek documents pertaining to third-parties, including
4 personnel records and financial records, the disclosure of which would constitute an
5 unwarranted invasion of the affected parties' constitutional, statutory and/or common
6 law rights to personal privacy and confidentiality. The City objects to Plaintiff's
7 definition of "Nominal Defendants" or "Owner Defendants" as overbroad, vague,
8 and ambiguous and seeking information not relevant to this lawsuit. The City
9 provided federal funds to the CRA/LA for the development multi-family housing
10 projects on a project-by-project basis. The City at this time is still investigating
11 whether the multifamily projects who have been named as parties to this action in
12 Plaintiffs' First Amended Complaint were the recipients of direct or indirect funding
13 from the City. The City objects to this request to the extent that it seeks information
14 protected from disclosure by the attorney-client privilege and/or attorney work
15 product doctrine, deliberative process and government information privilege, or any
16 other applicable privilege, and the City declines to produce such information. The
17 City objects to this request to the extent that it seeks documents that are already in
18 Plaintiff's possession, are publically available or are obtainable from other sources
19 that are more convenient and less burdensome or equally available to Plaintiff.

20 Subject to and without waiving the foregoing objections, the City responds as
21 follows: In response to the Requests the City will produce the documents listed on
22 Attachment A.

23 **Request No. 13:** Any and all documents, including, but not limited to, e-mail
24 correspondence; letters; minutes, logs, and/or notes memorializing any telephone
25 communications; minutes, logs, and/or notes memorializing any meetings or in-
26 person conversations, whether formal or informal; contracts; agreements; loan and
27 financing agreements or documents; disposition and development loan agreements;
28 owner participation agreements; covenants to any such agreements; documents of

1 title; notes; deeds of trust; performance deeds of trust; certificates of compliance;
2 plans and specifications; investigation reports, surveys, and/or audits, given to,
3 received from, or relating to, any Owner Defendant(s) concerning accessibility with
4 respect to the Redevelopment Housing Program.

5 **Response to Request No. 13:**

6 The City objects to this request to the extent that it is vague and ambiguous.
7 The City objects to this request on the ground that it seeks documents from a time
8 period of more than twenty (20) years, it is overbroad as to time and scope, would
9 require the City to conduct an unduly burdensome and oppressive investigation and
10 seeks documents that are not relevant to this litigation and not reasonably calculated
11 to lead to the discovery of admissible evidence. The City objects to this request to
12 the extent that it is overbroad and unduly burdensome in that it purports to require
13 the City to make an unreasonable and unduly burdensome investigation to identify
14 all responsive documents in the possession of any employee or representative of the
15 City, including email correspondence, over a period of more than twenty (20) years
16 during which time the City has employed tens of thousands of employees. The City
17 objects to the request to the extent that they seek documents pertaining to third-
18 parties, including personnel records and financial records, the disclosure of which
19 would constitute an unwarranted invasion of the affected parties' constitutional,
20 statutory and/or common law rights to personal privacy and confidentiality. The City
21 objects to this request to the extent that it seeks information protected from
22 disclosure by the attorney-client privilege and/or attorney work product doctrine,
23 deliberative process and government information privilege, or any other applicable
24 privilege, and the City declines to produce such information. The City objects to this
25 request to the extent that it seeks documents that are already in Plaintiff's possession,
26 are publically available or are obtainable from other sources that are more
27 convenient and less burdensome or equally available to Plaintiff. The City objects to
28 Plaintiff's definition of "Redevelopment Housing Program" as overbroad, vague and

1 ambiguous and seeking information not relevant to this lawsuit. The City provided
2 federal funds to CRA/LA for the development multi-family housing projects on a
3 project by project basis. In a good faith attempt to respond to the Request, the City
4 will interpret the phrase as referring to those multi-family housing projects for which
5 the City provided federal funds to the CRA/LA for the development of the project.
6 The City objects to Plaintiff's definition of "Nominal Defendants" or "Owner
7 Defendants" as overbroad, vague, and ambiguous and seeking information not
8 relevant to this lawsuit. The City provided federal funds to the CRA/LA for the
9 development multi-family housing projects on a project-by-project basis. The City
10 at this time is still investigating whether the multifamily projects who have been
11 named as parties to this action in Plaintiffs' First Amended Complaint were the
12 recipients of direct or indirect funding from the City.

13 Subject to and without waiving the foregoing objections, the City responds as
14 follows: In response to the Requests the City will produce the documents listed on
15 Attachment A.

16 **Request No. 14:** Any and all documents, including, but not limited to, e-mail
17 correspondence; letters; minutes, logs, and/or notes memorializing any telephone
18 communications; minutes, logs, and/or notes memorializing any meetings or in-
19 person conversations, whether formal or informal; contracts; agreements; loan and
20 financing agreements or documents; disposition and development loan agreements;
21 owner participation agreements; covenants to any such agreements; documents of
22 title; notes; deeds of trust; performance deeds of trust; certificates of compliance;
23 plans and specifications; investigation reports, surveys, and/or audits, given to,
24 received from, or relating to, any Owner Defendant(s) concerning requests for or
25 receipt of federal and state funds to support housing development and rehabilitation
26 within the Redevelopment Housing Program.

27 **Response to Request No. 14:**

28 The City objects to this request to the extent that it is vague and ambiguous.

1 The City objects to this request on the ground that it seeks documents from a time
2 period of more than twenty (20) years, it is overbroad as to time and scope, would
3 require the City to conduct an unduly burdensome and oppressive investigation and
4 seeks documents that are not relevant to this litigation and not reasonably calculated
5 to lead to the discovery of admissible evidence. The City objects to this request to
6 the extent that it is overbroad and unduly burdensome in that it purports to require
7 the City to make an unreasonable and unduly burdensome investigation to identify
8 all responsive documents in the possession of any employee or representative of the
9 City, including email correspondence, over a period of more than twenty (20) years
10 during which time the City has employed tens of thousands of employees. The City
11 objects to this request to the extent that it seeks information that is not in the
12 possession, custody or control of the City. The City objects to the request to the
13 extent that they seek documents pertaining to third-parties, including personnel
14 records and financial records, the disclosure of which would constitute an
15 unwarranted invasion of the affected parties' constitutional, statutory and/or common
16 law rights to personal privacy and confidentiality. The City objects to this request to
17 the extent that it seeks information protected from disclosure by the attorney-client
18 privilege and/or attorney work product doctrine, deliberative process and
19 government information privilege, or any other applicable privilege, and the City
20 declines to produce such information. The City objects to this request to the extent
21 that it seeks documents that are already in Plaintiff's possession, are publically
22 available or are obtainable from other sources that are more convenient and less
23 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
24 definition of "Redevelopment Housing Program" as overbroad, vague and
25 ambiguous and seeking information not relevant to this lawsuit. The City provided
26 federal funds to CRA/LA for the development multi-family housing projects on a
27 project by project basis. In a good faith attempt to respond to the Request, the City
28 will interpret the phrase as referring to those multi-family housing projects for which

1 the City provided federal funds to the CRA/LA for the development of the project.
2 The City objects to Plaintiff's definition of "Nominal Defendants" or "Owner
3 Defendants" as overbroad, vague, and ambiguous and seeking information not
4 relevant to this lawsuit. The City provided federal funds to the CRA/LA for the
5 development multi-family housing projects on a project-by-project basis. The City
6 at this time is still investigating whether the multifamily projects who have been
7 named as parties to this action in Plaintiffs' First Amended Complaint were the
8 recipients of direct or indirect funding from the City.

9 Subject to and without waiving the foregoing objections, the City responds as
10 follows: In response to the Requests the City will produce the documents listed on
11 Attachment A.

12 **Request No. 15:** Any and all documents, including, but not limited to, e-mail
13 correspondence; letters; minutes, logs, and/or notes memorializing any telephone
14 communications; minutes, logs, and/or notes memorializing any meetings or in-
15 person conversations, whether formal or informal; contracts; agreements; loan and
16 financing agreements or documents; disposition and development loan agreements;
17 owner participation agreements; covenants to any such agreements; documents of
18 title; notes; deeds of trust; performance deeds of trust; certificates of compliance;
19 plans and specifications; investigation reports, surveys, and/or audits, given to,
20 received from, or relating to, any Owner Defendant(s) concerning accessibility
21 obligations in housing imposed by Section 504 of the Rehabilitation Act, the
22 Americans with Disabilities Act, the Federal Fair Housing Act, the California Fair
23 Employment and Housing Act, and/or California Government Code § 11135.

24 **Response to Request No. 15:**

25 The City objects to this request to the extent that it is vague and ambiguous.
26 The City objects to this request on the ground that it seeks documents from a time
27 period of more than twenty (20) years, it is overbroad as to time and scope, would
28 require the City to conduct an unduly burdensome and oppressive investigation and

1 seeks documents that are not relevant to this litigation and not reasonably calculated
2 to lead to the discovery of admissible evidence. The City objects to this request to
3 the extent that it is overbroad and unduly burdensome in that it purports to require
4 the City to make an unreasonable and unduly burdensome investigation to identify
5 all responsive documents in the possession of any employee or representative of the
6 City, including email correspondence, over a period of more than twenty (20) years
7 during which time the City has employed tens of thousands of employees. The City
8 objects to this request to the extent that it seeks information that is not in the
9 possession, custody or control of the City. The City objects to the request to the
10 extent that they seek documents pertaining to third-parties, including personnel
11 records and financial records, the disclosure of which would constitute an
12 unwarranted invasion of the affected parties' constitutional, statutory and/or common
13 law rights to personal privacy and confidentiality. The City objects to this request to
14 the extent that it seeks information protected from disclosure by the attorney-client
15 privilege and/or attorney work product doctrine, deliberative process and
16 government information privilege, or any other applicable privilege, and the City
17 declines to produce such information. The City objects to this request to the extent
18 that it seeks documents that are already in Plaintiff's possession, are publically
19 available or are obtainable from other sources that are more convenient and less
20 burdensome or equally available to Plaintiff. The City objects to Plaintiff's definition
21 of "Nominal Defendants" or "Owner Defendants" as overbroad, vague, and
22 ambiguous and seeking information not relevant to this lawsuit. The City provided
23 federal funds to the CRA/LA for the development multi-family housing projects on a
24 project-by-project basis. The City at this time is still investigating whether the
25 multifamily projects who have been named as parties to this action in Plaintiffs' First
26 Amended Complaint were the recipients of direct or indirect funding from the City.

27 Subject to and without waiving the foregoing objections, the City responds as
28 follows: In response to the Requests the City will produce the documents listed on

1 Attachment A.

2 **Request No. 16:** Any and all documents, including, but not limited to, e-mail
3 correspondence; letters; minutes, logs, and/or notes memorializing any telephone
4 communications; minutes, logs, and/or notes memorializing any meetings or in-
5 person conversations, whether formal or informal; contracts; agreements; loan and
6 financing agreements or documents; disposition and development loan agreements;
7 owner participation agreements; covenants to any such agreements; documents of
8 title; notes; deeds of trust; performance deeds of trust; certificates of compliance;
9 plans and specifications; investigation reports, surveys, and/or audits, given to,
10 received from, or relating to, any Owner Defendant(s) concerning the City's,
11 CRA/LA's and/or any Subrecipient's compliance with Section 504 of the
12 Rehabilitation Act, the Americans with Disabilities Act, the Federal Fair Housing
13 Act, the California Fair Employment and Housing Act, and/or California
14 Government Code § 11135.

15 **Response to Request No. 16:**

16 The City objects to this request to the extent that it is vague and ambiguous.
17 The City objects to this request on the ground that it seeks documents from a time
18 period of more than twenty (20) years, it is overbroad as to time and scope, would
19 require the City to conduct an unduly burdensome and oppressive investigation and
20 seeks documents that are not relevant to this litigation and not reasonably calculated
21 to lead to the discovery of admissible evidence. The City objects to this request to
22 the extent that it is overbroad and unduly burdensome in that it purports to require
23 the City to make an unreasonable and unduly burdensome investigation to identify
24 all responsive documents in the possession of any employee or representative of the
25 City, including email correspondence, over a period of more than twenty (20) years
26 during which time the City has employed tens of thousands of employees. The City
27 objects to this request to the extent that it seeks information that is not in the
28 possession, custody or control of the City. The City objects to this request to the

1 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
2 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
3 Local Authority (not the City) became successor to the CRA/LA. The City objects to
4 the requests to the extent that they seek documents pertaining to third-parties,
5 including personnel records and financial records, the disclosure of which would
6 constitute an unwarranted invasion of the affected parties' constitutional, statutory
7 and/or common law rights to personal privacy and confidentiality. The City objects
8 to this request to the extent that it seeks information protected from disclosure by the
9 attorney-client privilege and/or attorney work product doctrine, deliberative process
10 and government information privilege, or any other applicable privilege, and the City
11 declines to produce such information. The City objects to this request to the extent
12 that it seeks documents that are already in Plaintiff's possession, are publically
13 available or are obtainable from other sources that are more convenient and less
14 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
15 definition of "Nominal Defendants" or "Owner Defendants" as overbroad, vague,
16 and ambiguous and seeking information not relevant to this lawsuit. The City
17 provided federal funds to the CRA/LA for the development multi-family housing
18 projects on a project-by-project basis. The City at this time is still investigating
19 whether the multifamily projects who have been named as parties to this action in
20 Plaintiffs' First Amended Complaint were the recipients of direct or indirect funding
21 from the City.

22 Subject to and without waiving the foregoing objections, the City responds as
23 follows: In response to the Requests the City will produce the documents listed on
24 Attachment A.

25 **Request No. 17:** Any and all documents by which you transferred federal housing
26 and community development funds to the CRA/LA, as well as any documents
27 relating to that transfer of funds.

28

1 **Response to Request No. 17:**

2 The City objects to this request to the extent that it is vague and ambiguous.
3 The City objects to this request on the ground that it seeks documents from a time
4 period of almost twenty (20) years, it is overbroad as to time and scope, would
5 require the City to conduct an unduly burdensome and oppressive investigation and
6 seeks documents that are not relevant to this litigation and not reasonably calculated
7 to lead to the discovery of admissible evidence. The City objects to this request to
8 the extent that it is overbroad and unduly burdensome in that it purports to require
9 the City to make an unreasonable and unduly burdensome investigation to identify
10 all responsive documents in the possession of any employee or representative of the
11 City, including email correspondence over a period of more than twenty (20) years
12 during which time the City has employed tens of thousands of employees. The City
13 objects to this request to the extent that it seeks information that is not in the
14 possession, custody or control of the City. The City objects to this request to the
15 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
16 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
17 Local Authority (not the City) became successor to the CRA/LA. The City objects to
18 this request to the extent that it seeks information protected from disclosure by the
19 attorney-client privilege and/or attorney work product doctrine, deliberative process
20 and government information privilege, or any other applicable privilege, and the City
21 declines to produce such information.

22 Subject to and without waiving the foregoing objections, the City responds as
23 follows: In response to the Requests the City will produce the documents listed on
24 Attachment A.

25 **Request No. 19:** Any and all documents, including, but not limited to, e-mail
26 correspondences; letters; minutes, logs, and/or notes memorializing any telephone
27 communications; minutes, logs, and/or notes memorializing any meetings or in-
28 person conversations, whether formal or informal; grant applications; Consolidated

1 Plans; Consolidated Annual Performance and Evaluation Reports (CAPERs); Annual
2 Action Plans; annual grantee certifications of compliance with civil rights, fair
3 housing, and accessibility obligations; accomplishment reports; performance profile
4 reports; expenditure reports; self-evaluations; needs assessments or transition plans;
5 strategic plans; surveys; housing element plans and reports; reports detailing any
6 analysis of impediments to fair housing choice; and/or other compliance reports or
7 documents, including any supporting documents, submitted to or received from
8 HUD, the State of California or any State agency, and/or any local government or
9 administrative agency concerning accessibility with respect to the Redevelopment
10 Housing Program.

11 **Response to Request No. 19:**

12 The City objects to this request to the extent that it is vague and ambiguous.
13 The City objects to this request on the ground that it seeks documents from a time
14 period of almost twenty (20) years, it is overbroad as to time and scope, would
15 require the City to conduct an unduly burdensome and oppressive investigation and
16 seeks documents that are not relevant to this litigation and not reasonably calculated
17 to lead to the discovery of admissible evidence. The City objects to this request to
18 the extent that it is overbroad and unduly burdensome in that it purports to require
19 the City to make an unreasonable and unduly burdensome investigation to identify
20 all responsive documents in the possession of any employee or representative of the
21 City, including email correspondence, over a period of more than twenty (20) years
22 during which time the City has employed tens of thousands of employees. The City
23 objects to this request to the extent that it seeks information that is not in the
24 possession, custody or control of the City. The City objects to Plaintiff's definition of
25 "Redevelopment Housing Program" as overbroad, vague and ambiguous and seeking
26 information not relevant to this lawsuit. The City provided federal funds to CRA/LA
27 for the development multi-family housing projects on a project-by-project basis. In a
28 good faith attempt to respond to the Requests, the City will interpret the phrase as

1 referring to those multi-family housing projects for which the City provided federal
2 funds to the CRA/LA for the development of the project. The City objects to this
3 request to the extent that it seeks information protected from disclosure by the
4 attorney-client privilege and/or attorney work product doctrine, deliberative process
5 and government information privilege, or any other applicable privilege, and the City
6 declines to produce such information. The City objects to this request to the extent
7 that it seeks documents that are already in Plaintiff's possession, are publically
8 available or are obtainable from other sources that are more convenient and less
9 burdensome or equally available to Plaintiff.

10 Subject to and without waiving the foregoing objections, the City responds as
11 follows: In response to the Requests the City will produce the documents listed on
12 Attachment A.

13 **Request No. 21:** Any and all documents, including, but not limited to, e-mail
14 correspondences; letters; minutes, logs, and/or notes memorializing any telephone
15 communications; minutes, logs, and/or notes memorializing any meetings or in-
16 person conversations, whether formal or informal; grant applications; Consolidated
17 Plans; Consolidated Annual Performance and Evaluation Reports (CAPERs); Annual
18 Action Plans; annual grantee certifications of compliance with civil rights, fair
19 housing, and accessibility obligations; accomplishment reports, performance profile
20 reports; expenditure reports; self-evaluations; needs assessments or transition plans;
21 strategic plans; surveys; housing element plans and reports; reports detailing any
22 analysis of impediments to fair housing choice; and/or other compliance reports or
23 documents, including any supporting documents, submitted to or received from
24 HUD, the State of California or any State agency, and/or any local government or
25 administrative agency concerning accessibility obligations in housing imposed by
26 Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, the
27 Federal Fair Housing Act, the California Fair Employment and Housing Act, and/or
28 California Government Code § 11135.

1 **Response to Request No. 21:**

2 The City objects to this request to the extent that it is vague and ambiguous.
3 The City objects to this request on the ground that it seeks documents from a time
4 period of almost twenty (20) years, it is overbroad as to time and scope, would
5 require the City to conduct an unduly burdensome and oppressive investigation and
6 seeks documents that are not relevant to this litigation and not reasonably calculated
7 to lead to the discovery of admissible evidence. The City objects to this request to
8 the extent that it is overbroad and unduly burdensome in that it purports to require
9 the City to make an unreasonable and unduly burdensome investigation to identify
10 all responsive documents in the possession of any employee or representative of the
11 City over a period of more than twenty (20) years during which time the City has
12 employed tens of thousands of employees. The City objects to this request to the
13 extent that it seeks information that is not in the possession, custody or control of the
14 City. The City objects to this request to the extent that it seeks information protected
15 from disclosure by the attorney-client privilege and/or attorney work product
16 doctrine, deliberative process and government information privilege, or any other
17 applicable privilege, and the City declines to produce such information. The City
18 objects to this request to the extent that it seeks documents that are already in
19 Plaintiff's possession, are publically available or are obtainable from other sources
20 that are more convenient and less burdensome or equally available to Plaintiff.

21 Subject to and without waiving the foregoing objections, the City responds as
22 follows: In response to the Requests the City will produce the documents listed on
23 Attachment A.

24 **Request No. 23:** Any and all documents reflecting communications between you
25 and any private advocacy group concerning the need for accessible housing within
26 the City of Los Angeles.

27 **Response to Request No. 23:**

28 The City objects to this request to the extent that it is vague and ambiguous.

1 The City objects to this request on the ground that it seeks documents from a time
2 period of more than twenty (20) years, it is overbroad as to time and scope, would
3 require the City to conduct an unduly burdensome and oppressive investigation and
4 seeks documents that are not relevant to this litigation and not reasonably calculated
5 to lead to the discovery of admissible evidence. The City objects to this request to
6 the extent that it is overbroad and unduly burdensome in that it purports to require
7 the City to make an unreasonable and unduly burdensome investigation to identify
8 all responsive documents in the possession of any employee or representative of the
9 City, including email correspondence, over a period of more than twenty (20) years
10 during which time the City has employed tens of thousands of employees. The City
11 objects to this request to the extent that it seeks information that is not in the
12 possession, custody or control of the City. The City objects to the request to the
13 extent that they seek documents pertaining to third-parties, including personnel
14 records and financial records, the disclosure of which would constitute an
15 unwarranted invasion of the affected parties' constitutional, statutory and/or common
16 law rights to personal privacy and confidentiality. The City objects to this request to
17 the extent that it seeks information protected from disclosure by the attorney-client
18 privilege and/or attorney work product doctrine, deliberative process and
19 government information privilege, or any other applicable privilege, and the City
20 declines to produce such information. The City objects to this request to the extent
21 that it seeks documents that are already in Plaintiff's possession, are publically
22 available or are obtainable from other sources that are more convenient and less
23 burdensome or equally available to Plaintiff.

24 Subject to and without waiving the foregoing objections, the City responds as
25 follows: In response to the Requests the City will produce the documents listed on
26 Attachment A.

27 **Request No. 24:** Any and all documents reflecting communications between you
28 and any private advocacy group concerning accessibility with respect to the

1 Redevelopment Housing Program.

2 **Response to Request No. 24:**

3 The City objects to this request to the extent that it is vague and ambiguous.
4 The City objects to this request on the ground that it seeks documents from a time
5 period of more than twenty (20) years, it is overbroad as to time and scope, would
6 require the City to conduct an unduly burdensome and oppressive investigation and
7 seeks documents that are not relevant to this litigation and not reasonably calculated
8 to lead to the discovery of admissible evidence. The City objects to this request to
9 the extent that it is overbroad and unduly burdensome in that it purports to require
10 the City to make an unreasonable and unduly burdensome investigation to identify
11 all responsive documents in the possession of any employee or representative of the
12 City, including email correspondence, over a period of more than twenty (20) years
13 during which time the City has employed tens of thousands of employees. The City
14 objects to this request to the extent that it seeks information that is not in the
15 possession, custody or control of the City. The City objects to Plaintiff's definition of
16 "Redevelopment Housing Program" as overbroad, vague and ambiguous and seeking
17 information not relevant to this lawsuit. The City provided federal funds to CRA/LA
18 for the development multi-family housing projects on a project-by-project basis. In a
19 good faith attempt to respond to the Requests, the City will interpret the phrase as
20 referring to those multi-family housing projects for which the City provided federal
21 funds to the CRA/LA for the development of the project. The City objects to this
22 request to the extent that it seeks information protected from disclosure by the
23 attorney-client privilege and/or attorney work product doctrine, deliberative process
24 and government information privilege, or any other applicable privilege, and the City
25 declines to produce such information. The City objects to the request to the extent
26 that they seek documents pertaining to third-parties, including personnel records and
27 financial records, the disclosure of which would constitute an unwarranted invasion
28 of the affected parties' constitutional, statutory and/or common law rights to personal

1 privacy and confidentiality. The City objects to this request to the extent that it seeks
2 documents that are already in Plaintiff's possession, are publically available or are
3 obtainable from other sources that are more convenient and less burdensome or
4 equally available to Plaintiff.

5 Subject to and without waiving the foregoing objections, the City responds as
6 follows: In response to the Requests the City will produce the documents listed on
7 Attachment A.

8 **Request No. 25:** Any and all documents reflecting communications between you
9 and any private advocacy group concerning accessibility obligations in housing
10 imposed by Section 504 of the Rehabilitation Act, the Americans with Disabilities
11 Act, the Federal Fair Housing Act, the California Fair Employment and Housing Act,
12 and/or California Government Code § 11135.

13 **Response to Request No. 25:**

14 The City objects to this request to the extent that it is vague and ambiguous.
15 The City objects to this request on the ground that it seeks documents from a time
16 period of almost twenty (20) years, it is overbroad as to time and scope, would
17 require the City to conduct an unduly burdensome and oppressive investigation and
18 seeks documents that are not relevant to this litigation and not reasonably calculated
19 to lead to the discovery of admissible evidence. The City objects to this request to
20 the extent that it is overbroad and unduly burdensome in that it purports to require
21 the City to make an unreasonable and unduly burdensome investigation to identify
22 all responsive documents in the possession of any employee or representative of the
23 City, including email correspondence, over a period of more than twenty (20) years
24 during which time the City has employed tens of thousands of employees. The City
25 objects to this request to the extent that it seeks information that is not in the
26 possession, custody or control of the City. The City objects to the request to the
27 extent that they seek documents pertaining to third-parties, including personnel
28 records and financial records, the disclosure of which would constitute an

1 unwarranted invasion of the affected parties' constitutional, statutory and/or common
2 law rights to personal privacy and confidentiality. The City objects to this request to
3 the extent that it seeks information protected from disclosure by the attorney-client
4 privilege and/or attorney work product doctrine, deliberative process and
5 government information privilege, or any other applicable privilege, and the City
6 declines to produce such information. The City objects to this request to the extent
7 that it seeks documents that are already in Plaintiff's possession, are publically
8 available or are obtainable from other sources that are more convenient and less
9 burdensome or equally available to Plaintiff.

10 Subject to and without waiving the foregoing objections, the City responds as
11 follows: In response to the Requests the City will produce the documents listed on
12 Attachment A.

13 **Request No. 26:** Any and all documents reflecting communications between you
14 and any private advocacy group concerning the City's, CRA/LA's and/or
15 Subrecipients' compliance with Section 504 of the Rehabilitation Act, the Americans
16 with Disabilities Act, the Federal Fair Housing Act, the California Fair Employment
17 and Housing Act, and/or California Government Code § 11135.

18 **Response to Request No. 26:**

19 The City objects to this request to the extent that it is vague and ambiguous.
20 The City objects to this request on the ground that it seeks documents from a time
21 period of more than twenty (20) years, it is overbroad as to time and scope, would
22 require the City to conduct an unduly burdensome and oppressive investigation and
23 seeks documents that are not relevant to this litigation and not reasonably calculated
24 to lead to the discovery of admissible evidence. The City objects to this request to
25 the extent that it is overbroad and unduly burdensome in that it purports to require
26 the City to make an unreasonable and unduly burdensome investigation to identify
27 all responsive documents in the possession of any employee or representative of the
28 City, including email correspondence, over a period of more than twenty (20) years

1 during which time the City has employed tens of thousands of employees. The City
2 objects to this request to the extent that it seeks information that is not in the
3 possession, custody or control of the City. The City objects to this request to the
4 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
5 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
6 Local Authority (not the City) became successor to the CRA/LA. The City objects to
7 this request to the extent that it seeks information pertaining to third-parties,
8 including personnel records, and financial records, the disclosure of which would
9 constitute an unwarranted invasion of the affected parties' constitutional, statutory
10 and/or common law rights to personal privacy and confidentiality. The City objects
11 to this request to the extent that it seeks information protected from disclosure by the
12 attorney-client privilege and/or attorney work product doctrine, deliberative process
13 and government information privilege, or any other applicable privilege, and the City
14 declines to produce such information. The City objects to this request to the extent
15 that it seeks documents that are already in Plaintiff's possession, are publically
16 available or are obtainable from other sources that are more convenient and less
17 burdensome or equally available to Plaintiff.

18 Subject to and without waiving the foregoing objections, the City responds as
19 follows: In response to the Requests the City will produce the documents listed on
20 Attachment A.

21 **Request No. 27:** Any and all documents, including, but not limited to, any financial
22 reports, expenditure reports, annual reports, budget reports, and any supporting
23 documents, reflecting the City's finances, revenues, and expenses relating to the
24 Redevelopment Housing Program.

25 **Response to Request No. 27:**

26 The City objects to this request to the extent that it is vague and ambiguous.
27 The City objects to this request on the ground that it seeks documents from a time
28 period of more than (20) years, it is overbroad as to time and scope, would require

1 the City to conduct an unduly burdensome and oppressive investigation and seeks
2 documents that are not relevant to this litigation and not reasonably calculated to lead
3 to the discovery of admissible evidence. The City objects to this request to the extent
4 that it is overbroad and unduly burdensome in that it purports to require the City to
5 make an unreasonable and unduly burdensome investigation to identify all
6 responsive documents in the possession of any employee or representative of the
7 City, including email correspondence, over a period of more than twenty (20) years
8 during which time the City has employed tens of thousands of employees. The City
9 objects to this request to the extent that it seeks information that is not in the
10 possession, custody or control of the City. The City objects to the request to the
11 extent that they seek documents pertaining to third-parties, including personnel
12 records and financial records, the disclosure of which would constitute an
13 unwarranted invasion of the affected parties' constitutional, statutory and/or common
14 law rights to personal privacy and confidentiality. The City objects to this request to
15 the extent that it seeks information protected from disclosure by the attorney-client
16 privilege and/or attorney work product doctrine, deliberative process and
17 government information privilege, or any other applicable privilege, and the City
18 declines to produce such information. The City objects to this request to the extent
19 that it seeks documents that are already in Plaintiff's possession, are publically
20 available or are obtainable from other sources that are more convenient and less
21 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
22 definition of "Redevelopment Housing Program" as overbroad, vague and
23 ambiguous and seeking information not relevant to this lawsuit. The City provided
24 federal funds to CRA/LA for the development multi-family housing projects on a
25 project by project basis. In a good faith attempt to respond to the Request, the City
26 will interpret the phrase as referring to those multi-family housing projects for which
27 the City provided federal funds to the CRA/LA for the development of the project.

28 Subject to and without waiving the foregoing objections, the City responds as

1 follows: In response to the Requests the City will produce the documents listed on
2 Attachment A.

3 **Request No. 29:** Any and all documents relating to any meetings, including, but not
4 limited to, meeting agendas, resolutions, minutes, notes, and/or audio/video
5 recordings at which housing needs of people with disabilities within the City of Los
6 Angeles was discussed.

7 **Response to Request No. 29:**

8 The City objects to this request to the extent that it is vague and ambiguous.
9 The City objects to this request on the ground that it seeks documents from a time
10 period of almost twenty (20) years, it is overbroad as to time and scope, would
11 require the City to conduct an unduly burdensome and oppressive investigation and
12 seeks documents that are not relevant to this litigation and not reasonably calculated
13 to lead to the discovery of admissible evidence. The City objects to this request to
14 the extent that it is overbroad and unduly burdensome in that it purports to require
15 the City to make an unreasonable and unduly burdensome investigation to identify
16 all responsive documents in the possession of any employee or representative of the
17 City, including email correspondence, over a period of more than twenty (20) years
18 during which time the City has employed tens of thousands of employees. The City
19 objects to this request to the extent that it seeks information that is not in the
20 possession, custody or control of the City. The City objects to the request to the
21 extent that they seek documents pertaining to third-parties, including personnel
22 records and financial records, the disclosure of which would constitute an
23 unwarranted invasion of the affected parties' constitutional, statutory and/or common
24 law rights to personal privacy and confidentiality. The City objects to this request to
25 the extent that it seeks information protected from disclosure by the attorney-client
26 privilege and/or attorney work product doctrine, deliberative process and
27 government information privilege, or any other applicable privilege, and the City
28 declines to produce such information.

1 Subject to and without waiving the foregoing objections, the City responds as
2 follows: In response to the Requests the City will produce the documents listed on
3 Attachment A.

4 **Request No. 30:** Any and all documents relating to any meetings, including, but not
5 limited to, meeting agendas, resolutions, minutes, notes, and/or audio/video
6 recordings at which accessibility with respect to the Redevelopment Housing
7 Program was discussed.

8 **Response to Request No. 30:**

9 The City objects to this request to the extent that it is vague and ambiguous.
10 The City objects to this request on the ground that it seeks documents from a time
11 period of more than (20) years, it is overbroad as to time and scope, would require
12 the City to conduct an unduly burdensome and oppressive investigation and seeks
13 documents that are not relevant to this litigation and not reasonably calculated to lead
14 to the discovery of admissible evidence. The City objects to this request to the extent
15 that it is overbroad and unduly burdensome in that it purports to require the City to
16 make an unreasonable and unduly burdensome investigation to identify all
17 responsive documents in the possession of any employee or representative of the
18 City, including email correspondence, over a period of more than twenty (20) years
19 during which time the City has employed tens of thousands of employees. The City
20 objects to this request to the extent that it seeks information that is not in the
21 possession, custody or control of the City. The City objects to this request to the
22 extent that it seeks information protected from disclosure by the attorney-client
23 privilege and/or attorney work product doctrine, deliberative process and
24 government information privilege, or any other applicable privilege, and the City
25 declines to produce such information. The City objects to Plaintiff's definition of
26 "Redevelopment Housing Program" as overbroad, vague and ambiguous and seeking
27 information not relevant to this lawsuit. The City provided federal funds to CRA/LA
28 for the development multi-family housing projects on a project by project basis. In a

1 good faith attempt to respond to the Request, the City will interpret the phrase as
2 referring to those multi-family housing projects for which the City provided federal
3 funds to the CRA/LA for the development of the project.

4 Subject to and without waiving the foregoing objections, the City responds as
5 follows: In response to the Requests the City will produce the documents listed on
6 Attachment A.

7 **Request No. 32:** Any and all documents relating to any meetings, including, but not
8 limited to, meeting agendas, resolutions, minutes, notes, and/or audio/video
9 recordings at which accessibility obligations in housing imposed by Section 504 of
10 the Rehabilitation Act, the Americans with Disabilities Act, the Federal Fair Housing
11 Act, the California Fair Employment and Housing Act, and/or California
12 Government Code § 11135 were discussed.

13 **Response to Request No. 32:**

14 The City objects to this request to the extent that it is vague and ambiguous.
15 The City objects to this request on the ground that it seeks documents from a time
16 period of almost twenty (20) years, it is overbroad as to time and scope, would
17 require the City to conduct an unduly burdensome and oppressive investigation and
18 seeks documents that are not relevant to this litigation and not reasonably calculated
19 to lead to the discovery of admissible evidence. The City objects to this request to
20 the extent that it is overbroad and unduly burdensome in that it purports to require
21 the City to make an unreasonable and unduly burdensome investigation to identify
22 all responsive documents in the possession of any employee or representative of the
23 City, including email correspondence over a period of more than twenty (20) years
24 during which time the City has employed tens of thousands of employees. The City
25 objects to this request to the extent that it seeks information that is not in the
26 possession, custody or control of the City. The City objects to this request to the
27 extent that it seeks information protected from disclosure by the attorney-client
28 privilege and/or attorney work product doctrine, deliberative process and

1 government information privilege, or any other applicable privilege, and the City
2 declines to produce such information. The City objects to this request to the extent
3 that it seeks documents that are already in Plaintiff's possession, are publically
4 available or are obtainable from other sources that are more convenient and less
5 burdensome or equally available to Plaintiff.

6 Subject to and without waiving the foregoing objections, the City responds as
7 follows: In response to the Requests the City will produce the documents listed on
8 Attachment A. Additional information responsive to this request is publically
9 available at <http://cityclerk.lacity.org>.

10 **Request No. 46:** Any and all documents that you relied on, in any way, in evaluating
11 or preparing your defense to this litigation.

12 **Response to Request 46:**

13 The City objects to this request to the extent that it is vague and ambiguous.
14 The City objects to this request on the ground that it seeks documents from a time
15 period of more than twenty (20) years, it is overbroad as to time and scope, would
16 require the City to conduct an unduly burdensome and oppressive investigation and
17 seeks documents that are not relevant to this litigation and not reasonably calculated
18 to lead to the discovery of admissible evidence. The City objects to this request to
19 the extent that it is overbroad and unduly burdensome in that it purports to require
20 the City to make an unreasonable and unduly burdensome investigation to identify
21 all responsive documents in the possession of any employee or representative of the
22 City, including email correspondence, over a period of more than twenty (20) years
23 during which time the City has employed tens of thousands of employees. The City
24 objects to this request to the extent that it seeks information that is not in the
25 possession, custody or control of the City. The City objects to this request to the
26 extent it seeks information from the CRA/LA. On February 1, 2012, the CRA was
27 dissolved pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated
28 Local Authority (not the City) became successor to the CRA/LA. The City objects to

1 this request to the extent that it seeks information pertaining to third-parties,
2 including personnel records, and financial records, the disclosure of which would
3 constitute an unwarranted invasion of the affected parties' constitutional, statutory
4 and/or common law rights to personal privacy and confidentiality. The City objects
5 to this request to the extent that it seeks information protected from disclosure by the
6 attorney-client privilege and/or attorney work product doctrine, deliberative process
7 and government information privilege, or any other applicable privilege, and the City
8 declines to produce such information. The City objects to this request to the extent
9 that it seeks documents that are already in Plaintiff's possession, are publically
10 available or are obtainable from other sources that are more convenient and less
11 burdensome or equally available to Plaintiff.

12 Subject to and without waiving the foregoing objections, the City responds as
13 follows: In response to the Requests the City will produce the documents listed on
14 Attachment A.

15
16 **1. Plaintiff's Argument**

17 **a. The City Failed to Produce Responsive Documents Or**
18 **Certify That It Has Produced All Responsive**
Documents in Response to Request Nos. 4, 7-17, 19, 21,
23-27, 29, 30, 32 and 46

19 In its responses to Fair Housing Council's requests for production of
20 documents, the City agreed to produce documents responsive to Request Nos. 4, 7-
21 17, 19, 21, 23-27, 29, 30, 32, and 46, but it has not produced responsive documents
22 and has refused to produce a certification that all responsive documents have been
23 produced.

24 The City asserts improper generalized objections to these requests for
25 production of documents and fails to support its objections. (*See supra* Part II.B at
26 5-8.) The parties do not dispute the discoverability of responsive documents but
27 rather whether all documents responsive to Request Nos. 4, 7-17, 19, 21, 23-27, 29,
28 30, 32, and 46 have been produced.

1 The City’s method of organizing its production of documents fails to comply
2 with Rule 34 of the Federal Rules of Civil Procedure and has made it difficult for
3 Fair Housing Council to determine whether responsive documents have been
4 produced. Rule 34(b)(2)(E) of the Federal Rules of Civil Procedure requires that
5 “[a] party must produce documents as they are kept in the ordinary course of
6 business or must organize and label them to correspond to the categories in the
7 request.” Fed. R. Civ. P. 34(b)(2)(E). The purpose of this provision of the Federal
8 Rules of Civil Procedure is “to prevent a party from obscuring the significance of
9 documents by giving some structure to the production.” *City of Colton v. Am.*
10 *Promotional Events, Inc.*, 277 F.R.D. 578, 584 (C.D. Cal. 2011) (quoting
11 *Consolidated Rail Corp. v. Grand Trunk W. R.R. Co.*, No. 09-CV-10179, 2009 WL
12 5151745, at *3 (E.D. Mich. Dec. 18, 2009).

13 In this case, the City produced two CDs with PDFs of responsive documents
14 (Attachments A and B) but failed to organize them either in the method in which
15 they are kept in the ordinary course of business or label them to correspond to the
16 categories in the request. (*See* Ex. 6 to Allen Decl.)

17 While the City correctly points out that it may produce documents in the
18 manner in which they are maintained in the ordinary course of business, the City
19 must also provide:

20 at least some modicum of information regarding how they are ordinarily
21 kept in order to allow the requesting party to make meaningful use of
22 the documents. At a minimum, that means that the disclosing party
23 should provide information about each document which ideally would
24 include, in some fashion, the identity of the custodian or person from
25 whom the documents were obtained, an indication of whether they are
retained in hard copy or digital format, assurance that the documents
have been produced in the order in which they are maintained, and a
general description of the filing system from which they were
recovered.

26 *Pass & Seymour, Inc. v. Hubbell*, 255 F.R.D. 331, 337 (N.D.N.Y. 2008); *see*
27 *Synventive Molding Solutions, Inc. v. Husky Injection Molding Sys., Inc.*, 262 F.R.D.
28 365, 370 (D. Vt. 2009) (same). The City has failed to provide any additional

1 information providing context for the documents produced in violation of Rule 34.

2 Based on Fair Housing Council's review of the documents produced, the City
3 has not produced any documents responsive to several categories including Request
4 Nos. 7, 9, 12, 19, 23-26, 27, 29, 30, and 32. Request Nos. 7 and 9 seek
5 communications between the City and the CRA regarding the need for accessible
6 housing and requests for or receipt of federal and state funds. Request No. 12 seeks
7 documents given to or received from any of the Owner Defendants³ regarding the
8 need for accessible housing. Request No. 19 seeks documents submitted to or
9 received from any governmental agencies regarding the accessibility of housing
10 receiving City funding and included in the CRA's housing inventory. Document
11 Request Nos. 23-26 seek communications between the City and private advocacy
12 groups concerning the need for accessible housing, the accessibility of the projects
13 receiving funding from the City and included in the CRA's housing inventory, the
14 accessibility obligations imposed by disability laws, and compliance with
15 accessibility requirements. Document Request Nos. 29, 30, and 32 request
16 documents related to meetings regarding these same topics. Request No. 27 seeks
17 documents reflecting the City's expenses, revenues and finances of housing projects
18 receiving City money and included in the CRA's housing inventory.

19 With respect to the remaining requests for production of documents (Request
20 Nos. 4, 8, 10, 11, 13-17, 21 & 46) the City arguably may have produced some
21 documents that are tangentially responsive to these categories of documents, but Fair
22 Housing Council seeks an order requiring the City to certify that all responsive
23 documents have been produced in response to these requests.

24 In the meet and confer process, Fair Housing Council sought the production of
25 documents responsive to these requests or a certification that all responsive
26 documents have been produced. (Ex. 5 to Allen Decl.) The City agreed to provide

27 ³ Plaintiffs named the owners of housing projects within the DLA's housing program
28 as defendants for purposes of relief.

1 a supplemental production but has failed to produce additional documents. (Allen
2 Decl. ¶¶ 8, 10 & Ex. 3.)

3 Fair Housing Council seeks an order requiring that the City produce
4 documents responsive to the requests or a certification that a search has been
5 conducted and that all responsive documents have been produced.

6 Because of the difficulty in determining whether responsive documents have
7 been produced, Fair Housing Council further requests that the City be ordered to
8 produce to Plaintiff an index of the documents produced, revealing the custodian,
9 location and a general description of the filing system under which each document
10 was maintained in the ordinary course of the City's business, further including an
11 indication of whether the document is kept in digital format, hard copy, or both. *See*
12 *Pass & Seymour, Inc.*, 255 F.R.D. at 338 (ordering the production of a similar index
13 in case where defendant claimed it was producing documents in the manner in which
14 it kept the documents but refused to provide any context for the production).

15 **2. The City's Argument**

16 Plaintiff's heading for this section suggests that it will address the City's
17 alleged failure to produce responsive documents or certify that it has produced all
18 responsive documents. However, the section addresses four distinct issues: 1) the
19 City's purported generalized objections, 2) the City's compliance with Rule
20 34(b)(2)(E), 3) Plaintiff's claims the City has not produced responsive documents
21 with respect to Request Nos. 7, 9, 12, 19, 23-26, 27, 29, 30, and 32, and 4) Plaintiff's
22 allegation that the City has not produced all responsive documents for Request Nos.
23 4, 8, 10, 11, 13-17, 21 and 46. The City has already addressed Plaintiff's incorrect
24 claim that the City's detailed objections were "generalized" and "boilerplate,"
25 despite Plaintiff's failure to meet and confer with the City regarding this issue. The
26 City will address the remaining three issues below.

27 **a. The City Complied with Rule 34(b)(2)(E)**

28 As Plaintiff states, Federal Rules of Civil Procedure Rule 34(b)(2)(E) allows a

1 party to provide the documents “as they are kept in the ordinary course of business or
2 must organize and label them to correspond to the categories in the request.” The
3 City has provided Plaintiff with documents as they are kept in the ordinary course of
4 business. Further, the City provided an index of the documents it produced.⁴ Based
5 upon a lengthy discussion during the parties teleconference on January 16, 2013, the
6 City believed that the issue regarding the manner of the City’s production had been
7 resolved and that Plaintiff understood that the City had produced documents in the
8 manner they were kept in the ordinary course of business as reflected in the City’s
9 January 24th letter to Plaintiff. (Ex. 3, p. 2). Plaintiff did not raise the issue of the
10 manner of the City’s production again until the Plaintiff’s February 13, 2013 letter,
11 which the City did not receive until February 20, 2013. When the City attempted to
12 address the letter, Plaintiff told the City to just wait until the Draft Joint Stipulation
13 arrived. (Byrne Decl. ¶ 11, Ex. 11.) The City again attempted to discuss the issue
14 with Plaintiff on March 12, 2013, after it had a chance to fully review the joint
15 stipulation, and again was rebuffed by the Plaintiff. (Byrne Decl. ¶ 14, Ex. 14.)

16 In its letter of February 13, 2013, Plaintiff cites for the first time *Pass &*
17 *Seymour, Inc. v. Hubbell*, 255 F.R.D. 331, 337 (N.D.N.Y. 2008) and *Synventive*
18 *Molding Solutions, Inc. v. Husky Injection Molding Sys., Inc.*, 262 F.R.D. 365, 370
19 (D. Vt. 2009) in support of the proposition that when documents are provided as
20 maintained in the ordinary course of business, the City must also provide additional
21 information regarding the manner in which the City maintains documents. However,
22 *Hubbell*, a patent infringement suit, is clearly distinguishable from the case at hand.
23 In response to 72 separate document discovery requests, the plaintiff produced over
24 400,000 pages of digital documents, in 202 electronic, unlabeled folders. The court
25 held that in such a case the documents should be organized and labeled. In contrast,
26 the City provided a list of the documents produced in response to the Document

27 ⁴ Plaintiff provided screenshots of the contents of the CDs. Attached hereto as Ex. 9
28 are the indexes that the City provided to Plaintiff. (Byrne Decl. ¶ 3, Ex. 9.)

1 Requests along with cds containing responsive documents. Imposing a further
2 burden on the City would go against the very precedent cited by the Plaintiff in *City*
3 *of Colton v. Am. Promotional Events, Inc.*, 277 F.R.D. 578 (C.D. Cal. 2011). *City of*
4 *Colton* clearly states, “Rule 34 does not obligate a party to *per se* organize and label
5 usable documents for the requesting party’s convenience...” *Id.* at 585.

6 The City requests that the Court deny Plaintiff’s request for an order requiring
7 that the City produce documents responsive to the requests or a certification that a
8 search has been conducted and that all responsive documents have been produced, on
9 the basis that the City is still searching for responsive documents, as Plaintiff is
10 aware.

11 The City also requests that the Court deny Plaintiff’s request for an order
12 requiring the City to produce an index of the documents produced, revealing the
13 custodian, location and a general description of the filing system under which each
14 document was maintained in the ordinary course of the City’s business, including an
15 indication of whether the document is kept in digital format, hard copy, or both.
16 Plaintiff failed to properly meet and confer as required by Local Rule 37-1 and
17 rebuffed the City’s attempt to do so to narrow the issue before the Court. (Byrne
18 Decl. ¶ 14, Ex. 14.) Plaintiff argues that their request is necessary due to the
19 difficulty of determining whether responsive documents have been produced. The
20 difficulty lies not with the City’s production, but with the overlapping, ambiguous,
21 and broad scope of the requests themselves.

22
23 **b. The City Produced Documents in Response to Request
Nos. 7, 9, 12, 19, 23-25, 27 29, 30 and 32**

24 The City is bewildered by Plaintiff’s statement that not a single document has
25 been produced by the City in response to Request Nos. 7, 9, 12, 19, 23-25, 27 29, 30
26 and 32. The City has provided specific documents in response to these Requests, as
27 illustrated by the examples below.

28 Request No. 19 seeks over thirty types of documents regarding accessibility

1 with respect to the “Redevelopment Housing Program,” including but not limited to
2 Annual Action Plans, Consolidated Plans, Housing Elements, and Annual Grantee
3 Certifications. The City has repeatedly denied the existence of the “Redevelopment
4 Housing Program.” However, in a good faith effort to respond to the Requests, the
5 City interpreted the request broadly and produced responsive documents specifically
6 requested such as the Consolidated Plans, Consolidated Annual Performance and
7 Evaluation Reports (CAPERS), Annual Action Plans and Housing Elements. These
8 documents contained annual grantee certifications of compliance with civil rights,
9 fair housing, and accessibility obligations made by the City to HUD, which were also
10 responsive to these requests.

11 Request Nos. 23 and 24 seek any and all documents reflecting
12 communications between the City and any private advocacy group concerning the
13 need for accessible housing.⁵ Request No. 25 seeks any and all documents reflecting
14 communications between the City and any private advocacy group concerning
15 accessibility obligations in housing imposed by various statutes. The City objected to
16 the requests on the grounds, among others, they were vague and ambiguous. The
17 City’s initial production contained documents responsive to these requests. For
18 example, the Consolidated Plans contains information regarding public meetings
19 where members of private advocacy groups were present at which the need for
20 accessible housing was discussed. These meetings are also responsive to Request
21 No. 29, 30 and 32, which seek documents relating to meetings where accessibility
22 and/or the accessibility obligations of the various statutes Plaintiff has sued under
23 where discussed. The City has represented to Plaintiff that its document production is
24 not yet complete and it continues to seek responsive documents to Plaintiff’s
25 requests. (Byrne Decl. ¶ 7, Ex. 3, p. 7.)

26 _____

27 ⁵ Request No. 24 is identical to Request No. 23 except that it seeks
28 information regarding the Redevelopment Housing Program. As stated
above, the City denies the existence of such a program.

c. **The City Produced Responsive Documents for Request Nos. 4, 8, 10, 11, 13, 14, 15, 16, 17, 21 and 46 and Continues to Search for Responsive Documents**

1
2
3 Despite the Plaintiff's characterization of the City's production as
4 "tangentially responsive," the City has produced responsive documents to Request
5 Nos. 4, 8, 10, 11, 13, 14, 15, 16, 17, 21 and 46, including but not limited to specific
6 documents requested such as CAPERs and contracts with the Owner Defendants and
7 the CRA/LA. The City has informed Plaintiff that it is continuing to search for
8 responsive documents. (Byrne Decl. ¶ 7, Ex. 3, p. 7.) The City has produced
9 approximately 25,000 pages of responsive documents and is in the process of making
10 construction and finance files for each of the properties identified in the Second
11 Amended Complaint available for review.⁶

12 Plaintiff's request that the Court order the City to certify that all responsive
13 documents have been produced in response to these requests comes more than five
14 months prior to the close of discovery. Furthermore, Plaintiff has not even reviewed
15 all the documents that the City has agreed to make available for inspection.
16 Accordingly, the request is premature at best and should be denied.

17 **D. DOCUMENT REQUEST NOS. 3, 5 & 6**

18 **Request No. 3:** Any and all documents reflecting the City's policies and procedures
19 regarding the use of federal funds by CRA/LA and/or any Subrecipient who is part
20 of the Redevelopment Housing Program.

21 **Response to Request No. 3:**

22 The City objects to this request to the extent that it is vague and ambiguous.
23 The City objects to this request on the ground that it seeks documents from a time

24 _____

25 ⁶ The construction and finance files contain confidential information of
26 the developers and tenants. Accordingly, the City has asked counsel for
27 the Owner Defendants to review the files so that the Owner Defendants
28 can state their position with respect to the City's production of the files.
The City anticipates a Protective Order may be necessary. If Plaintiff
seeks to review the tenant information, the parties must address that
issue as well. (Byrne Decl. ¶ 13, Ex. 13.)

1 period of more than twenty (20) years, it is overbroad as to time and scope, would
2 require the City to conduct an unduly burdensome and oppressive investigation and
3 seeks documents that are not relevant to this litigation and not reasonably calculated
4 to lead to the discovery of admissible evidence. The City objects to this request to
5 the extent that it is overbroad and unduly burdensome in that it purports to require
6 the City to make an unreasonable and unduly burdensome investigation to identify
7 all responsive documents in the possession of any employee or representative of the
8 City, including email correspondence, over a period of more than twenty (20) years
9 during which time the City has employed tens of thousands of employees. The City
10 objects to this request to the extent that it seeks information pertaining to third-
11 parties, including personnel records, and financial records, the disclosure of which
12 would constitute an unwarranted invasion of the affected parties' constitutional,
13 statutory and/or common law rights to personal privacy and confidentiality. The City
14 objects to this request to the extent that it seeks information protected from
15 disclosure by the attorney-client privilege and/or attorney work product doctrine,
16 deliberative process and government information privilege, or any other applicable
17 privilege, and the City declines to produce such information. The City objects to
18 Plaintiff's definition of "Redevelopment Housing Program" as overbroad, vague and
19 ambiguous and seeking information not relevant to this lawsuit. The City provided
20 federal funds to CRA/LA for the development multi-family housing projects on a
21 project-by-project basis. In a good faith attempt to respond to the Request, the City
22 will interpret the phrase as referring to those multi-family housing projects for which
23 the City provided federal funds to the CRA/LA for the development of the project.

24 Subject to and without waiving the foregoing objections, the City responds as
25 follows: In response to the Requests the City will produce the documents listed on
26 Attachment A.

27 **Request No. 5:** Any and all documents reflecting the City's oversight, enforcement,
28 and/or monitoring of the CRA/LA and/or Subrecipients.

1 **Response to Request No. 5:**

2 The City objects to this request to the extent that it is vague and ambiguous as
3 to “oversight, enforcements and/or monitoring.” The City objects to this request on
4 the ground that it seeks documents from a time period of more than twenty (20)
5 years, it is overbroad as to time and scope, would require the City to conduct an
6 unduly burdensome and oppressive investigation and seeks documents that are not
7 relevant to this litigation and not reasonably calculated to lead to the discovery of
8 admissible evidence. The City objects to this request to the extent that it is overbroad
9 and unduly burdensome in that it purports to require the City to make an
10 unreasonable & unduly burdensome investigation to identify all responsive
11 documents in the possession of any employee or representative of the City, including
12 email correspondence, over a period of more than twenty (20) years during which
13 time the City has employed tens of thousands of employees. The City objects to this
14 request to the extent that it seeks information that is not in the possession, custody or
15 control of the City. The City objects to this request to the extent it seeks information
16 from the CRA/LA. On February 1, 2012, the CRA was dissolved pursuant to
17 California Assembly Bill 1X 26 and the CRA/LA Designated Local Authority (not
18 the City) became successor to the CRA/LA. The City objects to this request to the
19 extent that it seeks information protected from disclosure by the attorney-client
20 privilege and/or attorney work product doctrine, deliberative process and
21 government information privilege, or any other applicable privilege, and the City
22 declines to produce such information.

23 Subject to and without waiving the foregoing objections, the City responds as
24 follows: In response to the Requests the City will produce the documents listed on
25 Attachment A.

26 **Request No. 6:** Any and all documents, including, but not limited to statutes,
27 ordinances, regulations, policies, procedures, guidelines, forms, and/or certifications,
28 concerning the distribution of Federal housing and community development funds to

1 any entity.

2 **Response to Request No. 6:**

3 The City objects to this request to the extent that it is vague and ambiguous as
4 to “policies procedures, guidelines, forms, and/or certifications.” The City objects to
5 this request on the ground that it seeks documents from a time period of more than
6 twenty (20) years, it is overbroad as to time and scope, would require the City to
7 conduct an unduly burdensome and oppressive investigation and seeks documents
8 that are not relevant to this litigation and not reasonably calculated to lead to the
9 discovery of admissible evidence. The City objects to this request to the extent that it
10 is overbroad and unduly burdensome in that it purports to require the City to make an
11 unreasonable and unduly burdensome investigation to identify all responsive
12 documents in the possession of any employee or representative of the City, including
13 email correspondence, over a period of more than twenty (20) years during which
14 time the City has employed tens of thousands of employees. The City objects to this
15 request to the extent that it seeks information pertaining to third-parties, including
16 personnel records, and financial records, the disclosure of which would constitute an
17 unwarranted invasion of the affected parties’ constitutional, statutory and/or common
18 law rights to personal privacy and confidentiality. The City objects to this request to
19 the extent that it seeks information protected from disclosure by the attorney-client
20 privilege and/or attorney work product doctrine, deliberative process and
21 government information privilege, or any other applicable privilege, and the City
22 declines to produce such information. The City objects to this request to the extent
23 that it seeks documents that are already in Plaintiff’s possession, are publically
24 available or are obtainable from other sources that are more convenient and less
25 burdensome or equally available to Plaintiff.

26 Subject to and without waiving the foregoing objections, the City responds as
27 follows: In response to the Requests the City will produce the documents listed on
28 Attachment A. Furthermore, additional information responsive to this request is

1 publically available through the City Clerk's website at
2 <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm>.

3
4 **1. Plaintiff's Argument**

5 **a. The City Should Be Required to Conduct a Further Search for Responsive Documents**

6 Requests for Production Nos. 3, 5 & 6 relate to policies and practices
7 regarding the use of federal funds and the oversight and monitoring of recipients and
8 subrecipients of federal funds. The parties do not appear to dispute that documents
9 responsive to these requests are discoverable. In its initial response, the City asserted
10 a litany of improper general objections and failed to support its objections (*see supra*
11 Part II.B at 5-8) but agreed to produce documents responsive to these requests.

12 In the meet and confer process, Fair Housing Council noted that additional
13 responsive documents may exist and provided the City with a list of other categories
14 of documents that are responsive to these requests. Fair Housing Council explained:

15 Plaintiff's requests encompass both policies and procedures used to
16 monitor recipients and subrecipients and specific documents reflecting
17 monitoring the CRA/LA and other subrecipients in the Redevelopment
18 Housing Program. Examples of the documents (referred to in the reports
19 produced to Plaintiff) that are responsive to Plaintiff's requests but have
20 not been produced include: (1) ESI in native format from the Integrated
21 Services and Information System database and the Integrated
22 Disbursement Information Systems (IDIS) database; (2) the
23 Subrecipient HOME Monitoring Manual for the Community
24 Redevelopment Agency of Los Angeles; and (3) Greensheets and
25 Transmittal Sheets related to funding for any of developments in the
26 Redevelopment Housing Program. Plaintiff notes that a HOME
27 monitoring checklist was produced by the City, but similar checklists
28 for monitoring of HOPWA and CDBG recipients and subrecipients
have not been produced. Similarly, an LAHD Disbursement Manual for
the HOPW A program has been produced but similar manuals have not
been produced for the HOME or CDBG programs.

(See Ex. 1 to Allen Decl.)

The City agreed to conduct a further search for documents responsive to these requests but has not produced any additional responsive documents or certified that all responsive documents to Request Nos. 3, 5, and 6 have been produced as requested by Plaintiff.

1 Fair Housing Council requests that the Court require the City to produce all
2 additional documents responsive to these requests or certify that all responsive
3 documents have been produced.

4 **2. The City's Argument**

5 Despite the City's objections to the broad nature of the Document Requests, it
6 has in good faith continued to search for responsive documents. The City has
7 produced approximately 25,000 pages of documents and is in the process of making
8 project files available for inspection. During the meet and confer process, the City
9 made it clear that its document production was not yet complete. (Byrne Decl. ¶ 7,
10 Ex. 3.) The City is currently working through confidentiality issues with respect to
11 project files and will make the files available as soon as they are resolved. The City
12 continues to search for additional documents and has informed Plaintiff of its intent
13 to produce additional documents.

14 **E. DOCUMENT REQUEST NOS. 36-40**

15 **Request No. 36:** Any and all documents, including, but not limited to, building and
16 occupancy permits, construction contracts, all change orders, correspondence, and
17 communications between or among the architects, engineers, builders, owners,
18 permitting authorities, contractors, subcontractors, zoning officials, and any other
19 entity or individual with control or design approval authority, constituting the
20 complete construction files for units within the Redevelopment Housing Program.

21 **Response to Request No. 36:**

22 The City objects to this request to the extent that it is vague and ambiguous.
23 The City objects to this request on the ground that it seeks documents from a time
24 period of more than twenty (20) years, it is overbroad as to time and scope, would
25 require the City to conduct an unduly burdensome and oppressive investigation and
26 seeks documents that are not relevant to this litigation and not reasonably calculated
27 to lead to the discovery of admissible evidence. The City objects to this request to
28 the extent that it is overbroad and unduly burdensome in that it purports to require

1 the City to make an unreasonable and unduly burdensome investigation to identify
2 all responsive documents in the possession of any employee or representative of the
3 City, including email correspondence, over a period of more than twenty (20) years
4 during which time the City has employed tens of thousands of employees. The City
5 objects to this request to the extent that it seeks information that is not in the
6 possession, custody or control of the City. The City objects to Plaintiff's definition
7 of "Redevelopment Housing Program" as overbroad, vague and ambiguous and
8 seeking information not relevant to this lawsuit. The City provided federal funds to
9 CRA/LA for the development multi-family housing projects on a project-by-project
10 basis. In a good faith attempt to respond to the Requests, the City will interpret the
11 phrase as referring to those multi-family housing projects for which the City
12 provided federal funds to the CRA/LA for the development of the project. The City
13 objects to the request to the extent that they seek documents pertaining to third-
14 parties, including personnel records and financial records, the disclosure of which
15 would constitute an unwarranted invasion of the affected parties' constitutional,
16 statutory and/or common law rights to personal privacy and confidentiality. The City
17 objects to this request to the extent that it seeks information protected from
18 disclosure by the attorney-client privilege and/or attorney work product doctrine,
19 deliberative process and government information privilege, or any other applicable
20 privilege, and the City declines to produce such information. The City objects to this
21 request to the extent that it seeks documents that are already in Plaintiff's possession,
22 are publically available or are obtainable from other sources that are more
23 convenient and less burdensome or equally available to Plaintiff.

24 Subject to and without waiving the foregoing objections, the City responds as
25 follows: The occupancy permits can be viewed at the Los Angeles Department of
26 Building and Safety during regular business hours.

27 **Request No. 37:** Any and all documents, including, but not limited to, building plans
28 and building specifications, site plans, and apartment layouts, constituting the final

1 blueprints or final architectural drawings for multifamily housing projects within the
2 Redevelopment Housing Program.

3 **Response to Request No. 37:**

4 The City objects to this request to the extent that it is vague and ambiguous.
5 The City objects to this request on the ground that it seeks documents from a time
6 period of more than twenty (20) years, it is overbroad as to time and scope, would
7 require the City to conduct an unduly burdensome and oppressive investigation and
8 seeks documents that are not relevant to this litigation and not reasonably calculated
9 to lead to the discovery of admissible evidence. The City objects to this request to
10 the extent that it is overbroad and unduly burdensome in that it purports to require
11 the City to make an unreasonable and unduly burdensome investigation to identify
12 all responsive documents in the possession of any employee or representative of the
13 City, including email correspondence, over a period of more than twenty (20) years
14 during which time the City has employed tens of thousands of employees. The City
15 objects to this request to the extent that it seeks information that is not in the
16 possession, custody or control of the City. The City objects to this request to the
17 extent that it seeks information protected from disclosure by the attorney-client
18 privilege and/or attorney work product doctrine, deliberative process and
19 government information privilege, or any other applicable privilege, and the City
20 declines to produce such information. The City objects to this request to the extent
21 that it seeks documents that are already in Plaintiff's possession, are publically
22 available or are obtainable from other sources that are more convenient and less
23 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
24 definition of "Redevelopment Housing Program" as overbroad, vague and
25 ambiguous and seeking information not relevant to this lawsuit. The City provided
26 federal funds to CRA/LA for the development multi-family housing projects on a
27 project-by-project basis. In a good faith attempt to respond to the Requests, the City
28 will interpret the phrase as referring to those multi-family housing projects for which

1 the City provided federal funds to the CRA/LA for the development of the project.

2 Subject to and without waiving the foregoing objections, the City responds as
3 follows: The final building plans can be viewed at the Los Angeles Department of
4 Building and Safety during regular business hours.

5 **Request No. 38:** Any and all documents, including, but not limited to contracts,
6 correspondences, plans, specifications, notice of meetings, invoices, as well as, all
7 drafts of building plans and building specifications, site plans, apartment layouts, and
8 shop drawings, given to or received from any architect, civil engineer, or other
9 design professional involved in designing multifamily housing projects within the
10 Redevelopment Housing Program.

11 **Response to Request No. 38:**

12 The City objects to this request to the extent that it is vague and ambiguous.
13 The City objects to this request on the ground that it seeks documents from a time
14 period of almost twenty (20) years, it is overbroad as to time and scope, would
15 require the City to conduct an unduly burdensome and oppressive investigation and
16 seeks documents that are not relevant to this litigation and not reasonably calculated
17 to lead to the discovery of admissible evidence. The City objects to this request to
18 the extent that it is overbroad and unduly burdensome in that it purports to require
19 the City to make an unreasonable and unduly burdensome investigation to identify
20 all responsive documents in the possession of any employee or representative of the
21 City, including email correspondence, over a period of more than twenty (20) years
22 during which time the City has employed tens of thousands of employees. The City
23 objects to this request to the extent that it seeks information that is not in the
24 possession, custody or control of the City. The City objects to the request to the
25 extent that they seek documents pertaining to third-parties, including personnel
26 records and financial records, the disclosure of which would constitute an
27 unwarranted invasion of the affected parties' constitutional, statutory and/or common
28 law rights to personal privacy and confidentiality. The City objects to this request to

1 the extent that it seeks information protected from disclosure by the attorney-client
2 privilege and/or attorney work product doctrine, deliberative process and
3 government information privilege, or any other applicable privilege, and the City
4 declines to produce such information. The City objects to this request to the extent
5 that it seeks documents that are already in Plaintiff's possession, are publically
6 available or are obtainable from other sources that are more convenient and less
7 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
8 definition of "Redevelopment Housing Program" as overbroad, vague and
9 ambiguous and seeking information not relevant to this lawsuit. The City provided
10 federal funds to CRA/LA for the development multi-family housing projects on a
11 project-by-project basis. In a good faith attempt to respond to the Requests, the City
12 will interpret the phrase as referring to those multi-family housing projects for which
13 the City provided federal funds to the CRA/LA for the development of the project.

14 Subject to and not waiving the foregoing objections, the City responds as
15 follows: The final building plans can be viewed at the Los Angeles Department of
16 Building and Safety.

17 **Request No. 39:** Any and all documents, including, but not limited to, documents
18 relating to visits to the construction site by the architect, any determination whether
19 or not construction is proceeding in accordance with the plans, approvals of payment
20 to contractors, and/or any determination of amounts owed to contractors;
21 constituting, referring, or relating to the administration of any construction contract
22 for any multifamily housing project within the Redevelopment Housing Program by
23 any architect.

24 **Response to Request No. 39:**

25 The City objects to this request to the extent that it is vague and ambiguous.
26 The City objects to this request on the ground that it seeks documents from a time
27 period of more than twenty (20) years, it is overbroad as to time and scope, would
28 require the City to conduct an unduly burdensome and oppressive investigation and

1 seeks documents that are not relevant to this litigation and not reasonably calculated
2 to lead to the discovery of admissible evidence. The City objects to this request to
3 the extent that it is overbroad and unduly burdensome in that it purports to require
4 the City to make an unreasonable and unduly burdensome investigation to identify
5 all responsive documents in the possession of any employee or representative of the
6 City, including email correspondence, over a period of more than twenty (20) years
7 during which time the City has employed tens of thousands of employees. The City
8 objects to this request to the extent that it seeks information that is not in the
9 possession, custody or control of the City. The City objects to the request to the
10 extent that they seek documents pertaining to third-parties, including personnel
11 records and financial records, the disclosure of which would constitute an
12 unwarranted invasion of the affected parties' constitutional, statutory and/or common
13 law rights to personal privacy and confidentiality. The City objects to this request to
14 the extent that it seeks information protected from disclosure by the attorney-client
15 privilege and/or attorney work product doctrine, deliberative process and
16 government information privilege, or any other applicable privilege, and the City
17 declines to produce such information. The City objects to this request to the extent
18 that it seeks documents that are already in Plaintiff's possession, are publically
19 available or are obtainable from other sources that are more convenient and less
20 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
21 definition of "Redevelopment Housing Program" as overbroad, vague and
22 ambiguous and seeking information not relevant to this lawsuit. The City provided
23 federal funds to CRA/LA for the development multi-family housing projects on a
24 project-by-project basis. In a good faith attempt to respond to the Requests, the City
25 will interpret the phrase as referring to those multi-family housing projects for which
26 the City provided federal funds to the CRA/LA for the development of the project.

27 Subject to and without waiving the foregoing objections, the City responds as
28 follows: The final building plans can be viewed at the Los Angeles Department of

1 Building and Safety.

2 **Request No. 40:** Any and all documents, including, but not limited to,
3 correspondence with the building department, building permits, temporary
4 certificates of occupancy, permanent certificates of occupancy, certificates of
5 compliance, and other correspondence or documents given to or received from any
6 reviewing or approving state or local governmental agency, relating to permission to
7 build or to project approval for each multifamily housing project within the
8 Redevelopment Housing Program.

9 **Response to Request No. 40:**

10 The City objects to this request to the extent that it is vague and ambiguous.
11 The City objects to this request on the ground that it seeks documents from a time
12 period of more than twenty (20) years, it is overbroad as to time and scope, would
13 require the City to conduct an unduly burdensome and oppressive investigation and
14 seeks documents that are not relevant to this litigation and not reasonably calculated
15 to lead to the discovery of admissible evidence. The City objects to this request to
16 the extent that it is overbroad and unduly burdensome in that it purports to require
17 the City to make an unreasonable and unduly burdensome investigation to identify
18 all responsive documents in the possession of any employee or representative of the
19 City, including email correspondence, over a period of more than twenty (20) years
20 during which time the City has employed tens of thousands of employees. The City
21 objects to this request to the extent that it seeks information that is not in the
22 possession, custody or control of the City. The City objects to the request to the
23 extent that they seek documents pertaining to third-parties, including personnel
24 records and financial records, the disclosure of which would constitute an
25 unwarranted invasion of the affected parties' constitutional, statutory and/or common
26 law rights to personal privacy and confidentiality. The City objects to this request to
27 the extent that it seeks information protected from disclosure by the attorney-client
28 privilege and/or attorney work product doctrine, deliberative process and

1 government information privilege, or any other applicable privilege, and the City
2 declines to produce such information. The City objects to this request to the extent
3 that it seeks documents that are already in Plaintiff's possession, are publically
4 available or are obtainable from other sources that are more convenient and less
5 burdensome or equally available to Plaintiff. The City objects to Plaintiff's
6 definition of "Redevelopment Housing Program" as overbroad, vague and
7 ambiguous and seeking information not relevant to this lawsuit. The City provided
8 federal funds to CRA/LA for the development multi-family housing projects on a
9 project-by-project basis. In a good faith attempt to respond to the Requests, the City
10 will interpret the phrase as referring to those multi-family housing projects for which
11 the City provided federal funds to the CRA/LA for the development of the project.

12 Subject to and without waiving the foregoing objections, the City responds as
13 follows: The final building plans can be viewed at the Los Angeles Department of
14 Building and Safety.

15
16 1. **Plaintiff's Argument**

17 a. **The City Should Be Required to Search for Responsive Documents in Specific Departments of the City**

18 Request Nos. 36-40 seek construction-related documents and plans.
19 Construction-related plans and documents are plainly relevant in this case claiming
20 that the City and the DLA failed to ensure that housing projects in the DLA's
21 housing program are meaningfully accessible to people with disabilities. The City
22 asserted improper general objections and failed to support its objections in response
23 to Fair Housing Council's requests (*see supra* Part II.B at 5-8.) but noted that
24 documents responsive to Request Nos. 36-40 are equally available through the Los
25 Angeles Department of Building and Safety. Courts generally overrule the objection
26 that information and documents are equally available to a party. *See Nat'l Acad. of*
27 *Recording Arts & Sci. v. On Point Events, LP*, 256 F.R.D. 678, 682 (C.D. Cal. 2009)
28 (citing *St. Paul Reinsurance Co., Ltd. v. Commercial Fin. Co.*, 198 F.R.D. 508, 514

1 (N.D. Iowa 2000)).

2 In this case, Fair Housing Council seeks the specific construction-related plans
3 and documents in the possession of the Los Angeles Housing Department (“LAHD”)
4 and the Community Development Department (“CDD”). Construction related plans
5 within the possession of LAHD and CDD may be relevant to whether the City knew
6 or should have known that housing projects within the DLA’s housing program were
7 not meaningfully accessible. For example, if plans for a specific housing project in
8 the possession of LAHD show that a housing project is not accessible under UFAS,
9 the trier of fact may draw an inference that the City knew or should have known that
10 housing projects were not meaningfully accessible to people with disabilities.

11 In the meet and confer process, the City offered to search for documents
12 responsive to Request Nos. 36-40 in particular departments of the City. Fair
13 Housing Council requested that the City search LAHD and CDD for responsive
14 documents, but the City has failed or refused to produce responsive documents or
15 certify that no responsive documents exist other than those in the possession or the
16 Department of Building and Safety. (*See* Ex. 5 to Allen Decl. at 1-2.)

17 Fair Housing Council requests that the City be required to search for
18 documents responsive to Request Nos. 36-40 and produce responsive documents or
19 certify that no responsive documents exist other than those in the possession of the
20 Department of Building and Safety.

21 **1. The City’s Argument**

22 Notwithstanding its objection to Plaintiff’s use of the term “Redevelopment
23 Housing Program,” the City has agreed to produce documents related to the sixty-
24 one multi-family housing projects identified in the Second Amended Complaint and
25 identified additional documents that are available for Plaintiff’s inspection.
26 The City is perplexed by Plaintiff’s assertion that the City responded to Request Nos.
27 36-40 by stating that documents responsive to Request Nos. 36-40 are equally
28 available through the Los Angeles Department of Building and Safety. This grossly

1 misstates the City’s response. The City responded that the final building plans,
2 which are responsive to these requests, could be accessed at the Los Angeles
3 Department of Building and Safety, where they are kept in the ordinary course of
4 business. Plaintiff now asserts that it is seeking the specific construction-related
5 plans and documents in the possession of the Los Angeles Housing Department
6 (“LAHD”) and the Community Development Department (“CDD”). However,
7 Plaintiff’s overbroad requests do not so state. During the parties’ January 16th
8 teleconference, the City explained to Plaintiff’s counsel that some of the responsive
9 information they sought in Requests Nos. 36-40 were available for Plaintiff’s review
10 at the Department of Building and Safety, where they are normally kept. (Byrne
11 Decl. ¶ 7.) By making documents available for inspection, the City has met its
12 obligation by creating a reasonable place for inspection of documents responsive to
13 these requests. *See Superior Communications v. Earhugger, Inc.* 257 FRD 215, 220
14 (CD CA 2009) (business records should be examined “at the place where they are
15 kept at least where the documents requested are large in number and their production
16 poses some inconvenience.”). In its January 24th letter, the City informed the Plaintiff
17 that the final building plans were available for Plaintiff’s at the place where they are
18 kept in the ordinary course of business and that the City was continuing to search for
19 responsive documents. (Ex. 3.)

20 On February 14, 2013, the City informed Plaintiff that additional documents
21 responsive to its requests would be available at LAHD for review and asked the
22 Plaintiff to provide dates when it would be available to review the documents.
23 Plaintiff’s counsel did not respond until March 6, 2013. (Byrne Decl. ¶ 10, Ex. 7.)
24 The City informed Plaintiff that construction and finance files that would be
25 responsive to Request Nos. 36-40 were available, but that the City is working
26 through confidentiality issues with respect to the files and anticipates that the
27 documents will be available soon. (Byrne Decl. ¶ 13, Ex. 13.)

28 Plaintiff is aware that the City continues to search for responsive documents,

1 responsive documents are currently available for inspection at the Department of
2 Building and Safety and additional documents will be available for inspection at
3 LAHD. Nevertheless, Plaintiff seeks an order from the Court compelling the City to
4 search for documents responsive to Request Nos. 36-40 and produce responsive
5 documents or certify that no responsive documents exist other than those in the
6 possession of the Department of Building and Safety. The request is premature and
7 the City requests that the Court deny Plaintiff's request.

8

9 **III. INTERROGATORIES AT ISSUE**

10 **A. INTERROGATORY NOS. 2-8**

11 **INTERROGATORY NO. 1:**⁷ Identify any and all policies and/or procedures you
12 have implemented, to ensure compliance with Section 504 of the Rehabilitation Act,
13 HUD's regulations at 24 C.F.R. Part 8, the Americans with Disabilities Act, the
14 Federal Fair Housing Act, and California Fair Employment and Housing Act, and/or
15 California Government Code § 11135 by the CRA/LA, any Owner Defendant, or any
16 other developer(s) and/or Subrecipient(s) that is involved in the Redevelopment
17 Housing Program.

18 **CITY'S RESPONSE:**

19 The City objects to this interrogatory to the extent that it is vague and
20 ambiguous. The City objects to this interrogatory to the extent it is overbroad as to
21 scope due to the inclusion of the Federal Fair Housing Act and the California Fair
22 Employment and Housing Act, these causes of action were dismissed in accordance
23 with the Court's November 30, 2012 order. The City objects to this interrogatory on
24 the grounds that it seeks information from a time period of more than twenty (20)
25 years, therefore, it is overbroad as to time and scope, would require the City to

26 _____
27 ⁷ The Fair Housing Council is not moving to compel additional information with
28 respect to Interrogatory No. 1; however, Interrogatory No. 1, and the City's response
to the interrogatory is included in this joint stipulation because it is referenced in the
City's responses to Interrogatory Nos. 2-8.

1 conduct an unduly burdensome and oppressive investigation and seeks information
2 that is not relevant to this litigation and not reasonably calculated to lead to the
3 discovery of admissible evidence. The City objects to this interrogatory to the extent
4 it is overbroad and unduly burdensome in that it purports to require the City to make
5 an unreasonable and unduly burdensome investigation to identify all responsive
6 information in the possession of any employee or representative of the City over
7 more than twenty (20) years during which time the City has employed tens of
8 thousands of employees. The City objects to the phrase “identify any and all policies
9 and/or procedures” on the grounds that as defined by Plaintiff, it is compound and
10 includes four subparts causing this interrogatory to be counted as four separate
11 interrogatories and the total number of interrogatories to exceed those allowed by the
12 Federal Rules of Civil Procedure. The City objects to Plaintiff’s definition of “Owner
13 Defendants” as overbroad, vague, and ambiguous and seeking information not
14 relevant to this lawsuit. The City provided federal funds to the CRA/LA for the
15 development of multi-family housing projects on a project-by-project basis. The
16 City at this time is still investigating whether the multifamily projects that have been
17 named as parties to this action were the recipients of direct or indirect funding from
18 the City. The City objects to Plaintiff’s definition of “Redevelopment Housing
19 Program” as overbroad, vague and ambiguous and seeking information not relevant
20 to this lawsuit. The City provided federal funds to CRA/LA for the development
21 multi-family housing projects on a project-by-project basis. The City denies that it
22 ever gave funding to the CRA/LA for a Redevelopment Housing Program, or that
23 such a program ever existed. In order to respond to this interrogatory, the City will
24 provide the requested information in terms of the City’s policies and procedures for
25 all subrecipients/developers.

26 Subject to and without waiving the foregoing objections, the City responds as
27 follows: The City has a long standing commitment to expanding equal opportunities
28 and providing the full extent of services to all of its residents, including those who

1 Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (“ADA”)
2 and California Government Code § 11135 seek to protect. As a large municipal
3 entity with numerous programs, the City is able to effectuate this commitment on
4 both a citywide level and within specific departments by implementing policies and
5 procedures, including but not limited to those discussed below.

6 On August 2, 1990, the City established the Affordable Housing Commission
7 to serve as an advisory body to the Mayor, the City Council, and the General
8 Manager of the Los Angeles Housing Department (“LAHD”) on housing matters.
9 The Commission is charged with specific tasks that include:

- 10 • Advise the Mayor and the City Council with respect to the City's
11 housing needs;
- 12 • Make recommendations to the Mayor and the City Council regarding
13 City housing policy and specific goals to be set to meet the City's
14 housing needs;
- 15 • Coordinate the City's various housing programs;
- 16 • Annually review the housing plans and budgets of City agencies and
17 departments to ensure conformance with City housing policy;
- 18 • Evaluate proposed policy and legislation for their impact on the
19 preservation and production of housing and if necessary make
20 recommendations to the Mayor and the City Council regarding
21 modifications that may be necessary to achieve the City's housing goals;
- 22 • Collaborate with City agencies and departments to initiate policies
23 and/or programs that favorably impact housing development; and
- 24 • Encourage public and private partnerships that promote housing
25 preservation and production.

26 In 2002, the City of Los Angeles commissioned Mental Health Advocacy
27 Services, Inc. to conduct a fair housing impediments study, review the City’s Zoning
28 Code, and identify land use and zoning regulations, practices, and procedures that

1 serve to impede the development and use of housing for persons with disabilities. To
2 address the constraints identified by the Fair Housing Impediment Study, the City
3 proposed and adopted a Reasonable Accommodation Ordinance. Adopted on March
4 18, 2006, the Ordinance achieved the following:

- 5 • Established a standard procedure for requesting reasonable
6 accommodation.
- 7 • Revised the definition of “family” in the Zoning Code to read “one or
8 more persons living together in a dwelling unit, with common access to,
9 and common use of all living, kitchen, and eating areas within the
10 dwelling unit.”

11 The City’s commitment to expanding equal opportunities and providing the
12 full extent of services to those who Section 504 of the Rehabilitation Act, the ADA
13 and California Government Code § 11135 seek to protect is apparent at the
14 departmental level as well.

15 The City and its departments have implemented policies and/or procedures to
16 ensure compliance with the applicable requirements of Housing and Urban
17 Development Department (“HUD”) funding, which includes compliance with
18 Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. The
19 provisions of these acts overlap with the requirement of California Government Code
20 § 11135 that “No person in the State of California shall, on the basis of ...disability,
21 be unlawfully denied full and equal access to the benefits of, or be unlawfully
22 subjected to discrimination under, any program or activity that is conducted,
23 operated, or administered by the state or by any state agency, is funded directly by
24 the state, or receives any financial assistance from the state.”

25 LAHD and the City’s Community Development Department (“CDD”), as the
26 primary departments that implement the Consolidated Plan Grants (HOME,
27 HOPWA, ADDI, CDBG, and ESG), conduct annual financial and programmatic
28 monitoring in addition to the annual OMB A-133 (Single Audit) and periodic

1 Controller audits. The monitoring process used by the two departments varies based
2 on the type of grant program; each of the Consolidated Plan grants has separate and
3 distinct regulations and requirements. The systems however are designed to
4 incorporate a variety of monitoring techniques and approaches in a coordinated effort
5 to assure that all funded activities receive an appropriate level of review, and that
6 regulations specific to the grants received are followed.

7 CDD is responsible for the administration of Community Development Block
8 Grants (“CDBG”) and Section 108 allocated by Community Planning and
9 Development (“CPD”). LAHD is the administer of the Consolidated Plan grant funds
10 for housing and homeless purposes, including HOME, HOPWA, ADDI, and ESG, as
11 well as CDBG allocated to LAHD and Los Angeles Homeless Services Authority
12 (“LAHSA”) programs. LAHD and CDD have had a policy (since prior to January 1,
13 2003) of including provisions in the contracts with those receiving such funds to
14 comply with all applicable laws and regulations. The City previously produced
15 copies of the applicable contracts for the housing projects at issue in this action. The
16 individuals who prepared and executed the contracts ensured that this policy was
17 followed. The recipient of the funds was aware of this policy by virtue of the
18 contracts that included the provisions. In 2009, LAHD also adopted a HOME
19 Subrecipient Manual regarding the use of HOME funds by any Subrecipient.

20 In 2005, CDD began utilizing an online tool called the Consolidated Plan
21 Application System (“CPAS”) in connection with its administration of CDBG funds.
22 CPAS included information regarding copies of training materials and guidebooks
23 provided by HUD and copies of all Code of Federal Regulations which pertain to the
24 grants. The CRA/LA was invited to attend training provided by CDD at least twice a
25 year on how to access and use CPAS to apply for funding and/or report CDBG
26 project results. During this training, CDD staff reviewed CDBG requirements and
27 demonstrated navigation of the CPAS website, including the information available
28 therein.

1 CDD Administrative Services Division (ASD) Grants Unit reviews all
2 applications for CDBG funding for adherence to the CDBG regulatory requirements.
3 The Staff frequently consults with City departments and agencies on eligibility and
4 national objective issues, and provides technical assistance to City departments and
5 related City agencies and non-profit organizations in assuring that approved project
6 activities continue to meet HUD and CDBG statutory and regulatory requirements.
7 Funding and eligibility recommendations are provided by CDD's Grants Section to
8 the Mayor upon review of all proposed projects.

9 The CDD engages in many other activities to ensure compliance with the
10 applicable requirements of HUD funding, which includes compliance with Section
11 504 of the Rehabilitation Act and the Americans with Disabilities Act. For example,
12 during the period of March 2011 to April 2012, CDD prepared written Grantee
13 Performance Report (GPR) guidance, provided two training presentations to City
14 staff and offered a "hands-on" data entry training to increase the number and quality
15 of the data reported for the activities.

16 LAHD monitors housing developments assisted by the City with Consolidated
17 Plan Grant funds in two phases: during construction and afterwards. Before the City
18 releases funds, loan agreements and related documents must be signed by the
19 borrower and approved by the City. These documents contain repayment terms, a
20 promissory note, loan agreement and additional terms including requirements related
21 to habitability standards, owner residency, tenant eligibility, nondiscrimination
22 provisions, requirements tied to funding type used in the project and if applicable
23 rent affordability guidelines.

24 Low-income tenancy, affordable rents, and other requirements are further
25 effectuated through a covenant, which is signed by the owner and recorded against
26 the property title. Covenants have provisions that require annual tenant re-
27 certification and periodic physical inspections when required by the grant. A
28 material breach of these provisions may result in acceleration of the loan and/or

1 foreclosure action against the collateral property.

2 Following the completion of construction, the Occupancy
3 Monitoring/Compliance Unit of LAHD is responsible for the second phase of
4 monitoring property owner compliance with federal, state, and local regulations,
5 recorded regulatory agreements, and land use covenants associated with the project.
6 The Occupancy Monitoring/Compliance Unit checks for the required occupancy
7 ratios, and also determines if residents meet the necessary requirements to reside in
8 the units. Monitoring activities include reviews ensuring adherence to any
9 underlying federal regulations, such as HUD Housing Quality Standards, as well as a
10 review of owner compliance with tenant income and rent ceiling. Compliance
11 monitoring is accomplished through the regular monitoring of a borrower-provided
12 management plan. Owners are required to provide LAHD with reports on the
13 current tenants and the rent schedule. These are reviewed for compliance by LAHD
14 staff. Monitoring consists of collecting and reviewing documentation and
15 conducting on-site visits to review project files and conduct habitability inspections.
16 LAHD has utilized a competitive process to select an experienced contractor to
17 manage a significant portion of the ongoing monitoring function.

18 The Occupancy Monitoring/Compliance Unit requires developers complete
19 and submit for approval a Property Management Plan, affirmative marketing efforts,
20 tenant selection, and other information designed to comply with the fair housing
21 requirements. This policy has been in place for more than ten years. Since 2012, the
22 Management Plan must include the percentage and unit numbers of the accessible
23 units and type of accessibility, tenant applications that request information as to
24 whether the tenant requires an accessible unit and/or needs a reasonable
25 accommodation, and information regarding how the waiting list will ensure
26 accessible units are available to those applicants who need them. The Management
27 Plan must also include a description of how developers will affirmatively market to
28 persons with disabilities. The Management Plan must be submitted to the Housing

1 Department at least two months before the property begins leasing units

2 The Occupancy Monitoring/Compliance Unit also has instituted a training
3 curriculum and orientation sessions to specifically inform developers and property
4 managers of the monitoring and management requirements. The orientation sessions
5 are scheduled when a project is 50-75% complete. Participants are provided with
6 reference materials related to the subjects covered during the training sessions. Since
7 December 2011, six orientation sessions have been held and 75 individuals have
8 received training.

9 LAHD's Occupancy Monitoring/Compliance Unit has grown over time and
10 processes approximately 200 new land use covenants per year and is responsible for
11 monitoring some 18,000 units annually. A contractor is now chosen via a
12 competitive process to manage a significant portion of the on-going monitoring
13 function.

14 LAHD requires its Loan Agreements and Notice of Funding Availabilities to
15 contain language that requires UFAS and/or ADA Standards for Accessible Design
16 to be complied with for any project receiving federal funding. This policy has been
17 in place for over ten years. Since 2012, in order to ensure design and final
18 installations compliance with respect to UFAS and/or ADA Standards for Accessible
19 Design, developers who receive federal funding from the City have been required to
20 submit project information to the City and hire an independent architecture or
21 engineering firm to act as an accessibility consultant. These consultants must be
22 certified by the state of California under the Certified Accessibility Specialist
23 Program ("CASP"). The developer for each federally funded project must provide a
24 written accessibility report of UFAS and/or ADA compliance prepared by a certified
25 CASP consultant prior to construction completion. Final disbursement of funds is
26 contingent upon receipt of the final accessibility report.

27 LAHD also actively markets low- and moderate-income housing opportunities
28 citywide. As part of its policies, LAHD requires owners and developers of

1 multifamily housing who receive financial assistance from the City to develop an
2 affirmative marketing plan consistent with the department's requirements. The
3 marketing plan, subject to approval by LAHD, must contain specific procedures to
4 inform and solicit applications from persons in a specific housing market area who
5 are not likely to apply without special outreach. Overall, the goal of the plan is to
6 promote equal housing choices for prospective purchasers or tenants.

7 LAHD also uses the following affirmative marketing procedures to advertise
8 its programs, funding availability, and to solicit bids and requests for proposals:
9 advertisements in Los Angeles newspapers with citywide circulation, newspapers
10 with a target audience (i.e. newspapers that reach Spanish or Korean speakers),
11 community meetings, newsletters, special workshops, notices on the City's and
12 LAHD's websites, and special mailings. This is not a comprehensive list of the
13 affirmative marketing procedures used by LAHD.

14 From March 2011 to April 2012, LAHD initiated the update of the Analysis of
15 Impediments to Fair Housing Choice completed in 2006. An informal advisory
16 group of local fair housing experts and others was formed to guide the new analysis.
17 Various public meetings were conducted throughout the City to promote public
18 participation including the City's Consolidated Planning process in October 2011. A
19 fair housing survey was available to the public in several languages including
20 English, Spanish, Korean, and Armenian.

21 LAHD also operates the Home Secure Program, designed to increase the
22 independence of elderly and disabled residents within the City by modifying (as
23 needed) their living environments with the installation of such features as locks, peep
24 holes, grab bars and tub attachments to enhance the safety and security of their
25 homes. Most home installations are made to the bathroom, bedroom, and kitchen.
26 From March 2011 to April 2012, over 1,334 households were assisted, exceeding the
27 goal of 1,222.

28 LAHD contracts annually with Housing Right Center ("HRC") for citywide

1 fair housing enforcement and services. The HRC was contracted with the City
2 through a competitive Request for Proposal system which occurs every three years.
3 The HRC Investigations Department conducts an independent fact-finding
4 investigation of any complaint of housing discrimination it receives. A housing
5 discrimination complaint can be investigated through testing, the gathering of
6 witness statements, or through research surveys. Case resolution can include
7 mediation, conciliation, referral to state and federal administrative agencies, referral
8 to outside fair housing attorneys, or representation by litigation attorneys of the
9 respective fair housing service providers. HRC, and its subcontractors, offer
10 telephone and in-person counseling to both tenants and landlords regarding their
11 respective rights and responsibilities. Assistance may also include mediation and
12 assistance with unlawful detainers. When a client's matter is outside the agencies'
13 scope of services, appropriate referral information is provided. These referrals
14 include, but are not limited to local housing authorities, health and building and
15 safety departments, legal assistance agencies, and other social service providers. The
16 funds provided by the City allow the HRC to offer a comprehensive fair housing
17 program that is staffed by several attorneys. From March 2011 to April 2012, HRC
18 provided a large variety of services to City residents. They received 7,956 general
19 housing calls; handled 1,279 fair housing discrimination inquiries; and of those
20 inquiries, opened 481 cases for investigation. Additionally, HRC leads fair housing
21 law workshops and programs for a variety of audiences such as residential property
22 personnel (e.g., landlords, property managers, and real estate agents), tenants,
23 prospective homebuyers, code enforcement personnel, police officers, City
24 employees, and other non-profit organizations. Depending upon the audience, the
25 written materials and presentations were translated by staff into Armenian, Korean,
26 Mandarin, Spanish, or Russian. For example, the Fair Housing Certification
27 Training for housing industry professionals is available in English, Spanish, and
28 Korean.

1 The LAHD and the HRC continue to participate in the Southern California
2 Fair Housing Advertising Task Force, convened by the Los Angeles Times. Both
3 LAHD and HRC play important roles in this collaboration.

4 The HRC also sponsors the Housing Rights Summit, a daylong conference
5 held annually since 2000 that brings interested parties together and raises public
6 awareness of fair housing issues and services. The event attracts civil rights
7 advocates, social service providers, housing industry and community members, and
8 government entities and addresses fair housing and other related issues, such as
9 housing accessibility for persons with disabilities and how housing conditions affect
10 resident's health.

11 The City's commitment to expanding equal opportunities and providing the
12 full extent of services goes beyond LAHD and CDD. Various other departments
13 have also implemented policies and procedures that seek to ensure compliance with
14 Section 504 of the Rehabilitation Act, the ADA and California Government Code §
15 11135.

16 The Housing Authority of the City of Los Angeles ("HACLA") works to
17 support and implement reasonable accommodations for participants in its programs,
18 and users of its facilities and housing. HACLA policies have been designed to be
19 responsive to individual needs for physical modifications and works on broader
20 physical modifications. Section 504 staff coordinates staff training and provides
21 guidance and assistance to staff and clients. During the course of March 2011 to
22 April 2012, HACLA began the process of updating its 504 policy and procedures
23 and training staff. Prior to policies being finalized and adopted, the HACLA reached
24 out to stakeholders to gain their input on the policy.

25 As part of the City's department wide commitment to affirmatively further fair
26 housing, HACLA has implemented a "504 hotline." The service is provided so that
27 individuals can report difficulty accessing staff or program benefits due to disability.
28 HACLA and disability advocates also collaborate on developing informative

1 presentations and documents to explain Section 8/Housing Choice Voucher program
2 rights and responsibilities for participants with disabilities. HACLA also provides
3 resources, brochures, posts rental listings with modifications for individuals with
4 disabilities on its website and has designated five ombudspersons to assist
5 individuals with difficulty accessing HACLA programs and services. Any individual
6 with a disability may also file a formal written grievance that will be investigated by
7 the Section 504/ADA coordinator.

8 All multi-family housing projects built within the City of Los Angeles are
9 inspected by the Department of Building and Safety for compliance with the building
10 code. Cities and counties in California are required to adopt the California Building
11 Standards Code (Title 24 of the California Code of Regulations). The Code is a set
12 of uniform health and safety codes covering building, electrical, mechanical,
13 plumbing, fire safety, disability access, and other issues. State law allows cities and
14 counties to add local, more restrictive, amendments to the California Building
15 Standards Code. These, and other, local code amendments are intended to improve
16 safety for building occupants and would not likely result in significant cost increases
17 for the production of housing or create discriminatory results in the availability of
18 housing.

19 The Disabled Access Appeals Commission at the Department of Building and
20 Safety hears appeals of actions taken by the Department of Building and Safety in
21 the enforcement of the requirements of state law dealing with access to public
22 accommodations and housing by physically disabled persons. The Commission is
23 composed of five members, and two members of the Commission are required to be
24 physically disabled persons. The Commission may uphold, modify, or overturn the
25 Department's decision.

26 The City has a Department on Disability ("DoD"), which consists of sixteen
27 (16) fulltime staff, charged with facilitating City-wide ADA and Section 504
28 compliance. In April 2012, the DoD hired a new ADA/Section 504 Coordinator.

1 Further, in an effort to strengthen its compliance efforts, the City allocated additional
2 funding to DoD for three new ADA compliance staff positions, which were filled in
3 October 2012. One of those positions is an ADA Housing Coordinator, who is
4 exclusively dedicated to accessible housing matters. This position has been filled by
5 an attorney with both housing and disability expertise.

6 The policies and /or procedures implemented by the City are embodied and/or
7 referenced in documents previously produced by the City in response to the
8 Plaintiffs' Requests for Production of Documents and the City continues to search
9 for additional responsive documents.

10 **INTERROGATORY NO. 2:** Identify any and all policies and/or procedures you
11 have implemented, to ensure compliance with Section 504 of the Rehabilitation Act,
12 HUD's regulations at 24 C.F.R. Part 8, the Americans with Disabilities Act, the
13 Federal Fair Housing Act⁸, and California Fair Employment and Housing Act, and/or
14 California Government Code § 11135 by any other developer(s) and/or
15 Subrecipient(s) outside the Redevelopment Housing Program.

16 **CITY'S RESPONSE:**

17 The City objects to the phrase "identify any and all policies and/or
18 procedures" on the grounds that as defined by Plaintiff, it is compound and includes
19 four subparts causing this interrogatory to be counted as four separate interrogatories
20 and the total number of interrogatories to exceed those allowed by the Federal Rules
21 of Civil Procedure. The City objects to this interrogatory on the grounds that it seeks
22 information from a time period of more than twenty (20) years, therefore, it is
23 overbroad as to time and scope, would require the City to conduct an unduly
24 burdensome and oppressive investigation and seeks information that is not relevant
25 to this litigation and not reasonably calculated to lead to the discovery of admissible

26 _____

27 ⁸ There is no longer a Federal Fair Housing Act claim in this case. (*See* Doc. 209.)
28 Fair Housing Council is not moving to compel the City to provide or produce
information relating to the Federal Fair Housing Act.

1 evidence. The City objects to this interrogatory to the extent it is overbroad and
2 unduly burdensome in that it purports to require the City to make an unreasonable
3 and unduly burdensome investigation to identify all responsive information in the
4 possession of any employee or representative of the City over of more than twenty
5 (20) years during which time the City has employed tens of thousands of employees.
6 The City objects to Plaintiff's definition of "Redevelopment Housing Program" as
7 overbroad, vague and ambiguous and seeking information not relevant to this
8 lawsuit. The City provided federal funds to CRA/LA for the development multi-
9 family housing projects on a project-by-project basis. In a good faith attempt to
10 respond to the Requests, the City will interpret the phrase as referring to those multi-
11 family housing projects for which the City provided federal funds to the CRA/LA for
12 the development of the project. Subject to and without waiving the foregoing
13 objections, the City responds as follows: See response to Interrogatory No.1.

14 **INTERROGATORY NO. 3:** Identify any and all actions that you have
15 implemented, to ensure compliance with Section 504 of the Rehabilitation Act,
16 HUD's regulations at 24 C.F.R. Part 8, the Americans with Disabilities Act, the
17 Federal Fair Housing Act, and California Fair Employment and Housing Act,
18 and/or California Government Code § 11135 by the CRA/LA, any Owner Defendant,
19 or any other developer(s) and/or Subrecipient(s) that is involved in the
20 Redevelopment Housing Program.

21 **CITY'S RESPONSE:**

22 The City objects to this interrogatory to the extent that the term "actions" it is
23 vague and ambiguous. The City objects to this interrogatory on the grounds that it
24 seeks information from a time period of more than twenty (20) years, therefore, it is
25 overbroad as to time and scope, would require the City to conduct an unduly
26 burdensome and oppressive investigation and seeks information that is not relevant
27 to this litigation and not reasonably calculated to lead to the discovery of admissible
28 evidence. The City objects to this interrogatory to the extent it is overbroad and

1 unduly burdensome in that it purports to require the City to make an unreasonable
2 and unduly burdensome investigation to identify all responsive information in the
3 possession of any employee or representative of the City over of more than twenty
4 (20) years during which time the City has employed tens of thousands of employees.
5 The City objects to Plaintiff's definition of "Redevelopment Housing Program" as
6 overbroad, vague and ambiguous and seeking information not relevant to this
7 lawsuit. The City provided federal funds to CRA/LA for the development multi-
8 family housing projects on a project-by-project basis. In a good faith attempt to
9 respond to the Requests, the City will interpret the phrase as referring to those multi-
10 family housing projects for which the City provided federal funds to the CRA/LA for
11 the development of the project. The City objects to Plaintiffs definition of "Nominal
12 Defendants" or "Owner Defendants" as overbroad, vague, and ambiguous and
13 seeking information not relevant to this lawsuit. The City provided federal funds to
14 the CRA/LA for the development multi-family housing projects on a project-by-
15 project basis. The City at this time is still investigating whether the multifamily
16 projects who have been named as parties to this action in Plaintiffs' First Amended
17 Complaint were the recipients of direct or indirect funding from the City. Subject to
18 and without waiving the foregoing objections, the City responds as follows: See
19 response to Interrogatory No.1.

20 **INTERROGATORY NO. 4:** Identify any and all actions that you have
21 implemented, to ensure compliance with Section 504 of the Rehabilitation Act,
22 HUD's regulations at 24 C.F.R. Part 8, the Americans with Disabilities Act, the
23 Federal Fair Housing Act, and California Fair Employment and Housing Act,
24 and/or California Government Code § 11135 by any other developer(s) and/or
25 Subrecipient(s) outside the Redevelopment Housing Program.

26 **CITY'S RESPONSE:**

27 The City objects to this interrogatory to the extent that the term "actions" it is
28 vague and ambiguous. The City objects to this interrogatory on the grounds that it

1 seeks information from a time period of more than twenty (20) years, therefore, it is
2 overbroad as to time and scope, would require the City to conduct an unduly
3 burdensome and oppressive investigation and seeks information that is not relevant
4 to this litigation and not reasonably calculated to lead to the discovery of admissible
5 evidence. The City objects to this interrogatory to the extent it is overbroad and
6 unduly burdensome in that it purports to require the City to make an unreasonable
7 and unduly burdensome investigation to identify all responsive information in the
8 possession of any employee or representative of the City over of more than twenty
9 (20) years during which time the City has employed tens of thousands of employees.
10 The City objects to Plaintiff's definition of "Redevelopment Housing Program" as
11 overbroad, vague and ambiguous and seeking information not relevant to this
12 lawsuit. The City provided federal funds to CRA/LA for the development multi-
13 family housing projects on a project-by-project basis. In a good faith attempt to
14 respond to the Requests, the City will interpret the phrase as referring to those multi-
15 family housing projects for which the City provided federal funds to the CRA/LA for
16 the development of the project. Subject to and without waiving the foregoing
17 objections, the City responds as follows: See response to Interrogatory No.1.

18 **INTERROGATORY NO. 5:** Identify any and all policies and/or procedures that
19 you have implemented to ensure that the Redevelopment Housing Program contains
20 units accessible to people with disabilities.

21 **CITY'S RESPONSE:**

22 The City objects to this interrogatory to the extent that it is vague and
23 ambiguous. The City objects to the phrase "identify any and all policies and/or
24 procedures" on the grounds that as defined by Plaintiff, it is compound and includes
25 four subparts causing this interrogatory to be counted as four separate interrogatories
26 and the total number of interrogatories to exceed those allowed by the Federal Rules
27 of Civil Procedure. The City objects to this interrogatory on the grounds that it seeks
28 information from a time period of more than twenty (20) years, therefore, it is

1 overbroad as to time and scope, would require the City to conduct an unduly
2 burdensome and oppressive investigation and seeks information that is not relevant
3 to this litigation and not reasonably calculated to lead to the discovery of admissible
4 evidence. The City objects to this interrogatory to the extent it is overbroad and
5 unduly burdensome in that it purports to require the City to make an unreasonable
6 and unduly burdensome investigation to identify all responsive information in the
7 possession of any employee or representative of the City over of more than twenty
8 (20) years during which time the City has employed tens of thousands of employees.
9 The City objects to the phrase “identify any and all policies and/or procedures” on
10 the grounds that as defined by Plaintiff, it is compound and includes four subparts
11 causing this interrogatory to be counted as four separate interrogatories and the total
12 number of interrogatories to exceed those allowed by the Federal Rules of Civil
13 Procedure. The City objects to Plaintiff's definition of "Redevelopment Housing
14 Program" as overbroad, vague and ambiguous and seeking information not relevant
15 to this lawsuit. The City provided federal funds to CRA/LA for the development
16 multi-family housing projects on a project-by-project basis. In a good faith attempt to
17 respond to the Requests, the City will interpret the phrase as referring to those multi-
18 family housing projects for which the City provided federal funds to the CRA/LA for
19 the development of the project. Subject to and without waiving the foregoing
20 objections, the City responds as follows: See response to Interrogatory No.1.

21 **INTERROGATORY NO. 6:** Identify any and all policies and/or procedures that
22 you have implemented to ensure that housing units supported with Federal housing
23 and community development funds outside the Redevelopment Housing Program
24 contain units accessible to people with disabilities.

25 **CITY'S RESPONSE:**

26 The City objects to this interrogatory to the extent that it is vague and
27 ambiguous. The City objects to this interrogatory on the grounds that it seeks
28 information from a time period of more than twenty (20) years, therefore, it is

1 overbroad as to time and scope, would require the City to conduct an unduly
2 burdensome and oppressive investigation and seeks information that is not relevant
3 to this litigation and not reasonably calculated to lead to the discovery of admissible
4 evidence. The City objects to this interrogatory to the extent it is overbroad and
5 unduly burdensome in that it purports to require the City to make an unreasonable
6 and unduly burdensome investigation to identify all responsive information in the
7 possession of any employee or representative of the City over of more than twenty
8 (20) years during which time the City has employed tens of thousands of employees.
9 The City objects to the phrase “identify any and all policies and/or procedures” on
10 the grounds that as defined by Plaintiff, it is compound and includes four subparts
11 causing this interrogatory to be counted as four separate interrogatories and the total
12 number of interrogatories to exceed those allowed by the Federal Rules of Civil
13 Procedure. The City objects to Plaintiff's definition of "Redevelopment Housing
14 Program" as overbroad, vague and ambiguous and seeking information not relevant
15 to this lawsuit. The City provided federal funds to CRA/LA for the development
16 multi-family housing projects on a project-by-project basis. In a good faith attempt to
17 respond to the Requests, the City will interpret the phrase as referring to those multi-
18 family housing projects for which the City provided federal funds to the CRA/LA for
19 the development of the project. Subject to and without waiving the foregoing
20 objections, the City responds as follows: See response to Interrogatory No.1.

21 **INTERROGATORY NO. 7:** Identify any and all policies and/or procedures that
22 you have implemented to ensure that accessible units in the Redevelopment Housing
23 Program are made available to, and utilized by, people with mobility, visual or
24 auditory impairments.

25 **CITY’S RESPONSE:**

26 The City objects to this interrogatory to the extent that it is vague and
27 ambiguous. The City objects to this interrogatory on the grounds that it seeks
28 information from a time period of more than twenty (20) years, therefore, it is

1 overbroad as to time and scope, would require the City to conduct an unduly
2 burdensome and oppressive investigation and seeks information that is not relevant
3 to this litigation and not reasonably calculated to lead to the discovery of admissible
4 evidence. The City objects to this interrogatory to the extent it is overbroad and
5 unduly burdensome in that it purports to require the City to make an unreasonable
6 and unduly burdensome investigation to identify all responsive information in the
7 possession of any employee or representative of the City over of more than twenty
8 (20) years during which time the City has employed tens of thousands of employees.
9 The City objects to the phrase “identify any and all policies and/or procedures” on
10 the grounds that as defined by Plaintiff, it is compound and includes four subparts
11 causing this interrogatory to be counted as four separate interrogatories and the total
12 number of interrogatories to exceed those allowed by the Federal Rules of Civil
13 Procedure. The City objects to Plaintiff's definition of "Redevelopment Housing
14 Program" as overbroad, vague and ambiguous and seeking information not relevant
15 to this lawsuit. The City provided federal funds to CRA/LA for the development
16 multi-family housing projects on a project-by-project basis. In a good faith attempt to
17 respond to the Requests, the City will interpret the phrase as referring to those multi-
18 family housing projects for which the City provided federal funds to the CRA/LA for
19 the development of the project. Subject to and without waiving the foregoing
20 objections, the City responds as follows: See response to Interrogatory No.1.

21 **INTERROGATORY NO. 8:** Identify any and all policies and/or procedures that
22 you have implemented to ensure that accessible units supported with Federal housing
23 and community development funds outside the Redevelopment Housing Program are
24 made available to, and utilized by, people with mobility, visual or auditory
25 impairments.

26 **CITY'S RESPONSE:**

27 The City objects to this interrogatory to the extent that it is vague and
28 ambiguous. The City objects to this interrogatory on the grounds that it seeks

1 information from a time period of more than twenty (20) years, therefore, it is
2 overbroad as to time and scope, would require the City to conduct an unduly
3 burdensome and oppressive investigation and seeks information that is not relevant
4 to this litigation and not reasonably calculated to lead to the discovery of admissible
5 evidence. The City objects to this interrogatory to the extent it is overbroad and
6 unduly burdensome in that it purports to require the City to make an unreasonable
7 and unduly burdensome investigation to identify all responsive information in the
8 possession of any employee or representative of the City over of more than twenty
9 (20) years during which time the City has employed tens of thousands of employees.
10 The City objects to the phrase “identify any and all policies and/or procedures” on
11 the grounds that as defined by Plaintiff, it is compound and includes four subparts
12 causing this interrogatory to be counted as four separate interrogatories and the total
13 number of interrogatories to exceed those allowed by the Federal Rules of Civil
14 Procedure. The City objects to Plaintiff's definition of "Redevelopment Housing
15 Program" as overbroad, vague and ambiguous and seeking information not relevant
16 to this lawsuit. The City provided federal funds to CRA/LA for the development
17 multi-family housing projects on a project-by-project basis. In a good faith attempt to
18 respond to the Requests, the City will interpret the phrase as referring to those multi-
19 family housing projects for which the City provided federal funds to the CRA/LA for
20 the development of the project. Subject to and without waiving the foregoing
21 objections, the City responds as follows: See response to Interrogatory No.1.

22 **1. Plaintiff's Argument**

23 **a. The City Should be Required to Provide Complete,**
24 **Written Responses to Interrogatory Nos. 2-8**

25 The City has provided only one substantive response to the Fair Housing
26 Council's Interrogatories—a response to Interrogatory No. 1. Rather than provide a
27 complete, written response to Interrogatory Nos. 2-8, the City directs the Fair
28 Housing Council to its response to Interrogatory No. 1. Specifically, in lieu of

1 providing narrative answers, the City writes “See response to Interrogatory No. 1” as
2 its answer to Interrogatory Nos. 2-8.

3 On January 16, 2013, the parties participated in a meet and confer by
4 telephone during which the parties discussed discovery issues, including the City’s
5 responses to Interrogatory Nos. 2-8.⁹ During the meet and confer, the City
6 represented that it would supplement its responses to Interrogatory Nos. 2-8.
7 Additionally, on January 24, 2013, the City sent a letter to the Fair Housing Council
8 memorializing its understanding of the issues discussed during the January 16, 2013
9 telephone conference. With respect to its responses to Interrogatory Nos. 2-8, the
10 City asserted that its answers were appropriate because the Fair Housing Council’s
11 Interrogatory Nos. 2-8, in its opinion, were duplicative and sought the same
12 information. Nevertheless, the City reiterated the representation that it made during
13 the January 16, 2013 telephone conference, specifically writing in its letter that
14 “[n]otwithstanding [its] objections . . . the City in good faith will also amend its
15 responses to Interrogatory Nos. 2-8 so that the Plaintiff does not have to reference
16 Interrogatory No. 1, and will further supplement its responses.” (See Ex. 3 to Allen
17 Decl., 1/24/13 Ltr. from City to Pl. at 9.) The City reaffirmed its agreement to
18 supplement its responses to Interrogatory Nos. 2-8, “notwithstanding its objections,”
19 in another letter that it sent to the Fair Housing Council on February 14, 2013. (See
20 Ex. 7 to Allen Decl., 2/14/13 Ltr. from City to Pl.)

21 However, the “supplemental” responses that the City provided to the Fair
22 Housing Council on February 22, 2013 (over one month after it initially agreed to
23 supplement its interrogatory answers) were virtually identical to its initial
24 responses—the City’s purportedly supplemental answers similarly directed the Fair
25 Housing Council to Interrogatory No. 1 in response to Interrogatory Nos. 2-8. The

26 ⁹ Prior to the meet and confer, the Fair Housing Council sent the City a letter
27 detailing the discovery responses that the Fair Housing Council believed to be
28 deficient, as well as the authority upon which the Fair Housing Council relied in
support of its position. (See Ex. 1 to Allen Decl., 1/8/13 Ltr. from Pl. to City.)

1 City’s reference to Interrogatory No. 1 in response to Interrogatory Nos. 2-8 is
2 improper. The Court should compel the City to provide full, written responses to the
3 Fair Housing Council’s Interrogatory Nos. 2-8.

4 Rule 33 clearly requires that the responding party answer each interrogatory
5 “separately and fully.” Fed. R. Civ. P. 33(b)(3). Courts have specifically held that
6 providing an answer to an interrogatory that merely references other interrogatories,
7 as the City has done in the instant case, runs afoul of the Rule. For example, in *U.S.*
8 *ex rel. O’Connell v. Chapman Univ.*, 245 F.R.D. 646 (C.D. Cal. 2007), instead of
9 providing separate and complete answers, the plaintiff responded to a number of
10 interrogatories by referring the defendant to her response to one specific
11 interrogatory. *Id.* at 650. The court found plaintiff’s method of responding to these
12 interrogatories to be “improper” and compelled plaintiff to provide supplemental
13 responses to the interrogatories at issue. *Id.* In doing so, the court specifically
14 recognized the “well established” principle that an answer to an interrogatory
15 “should be complete in itself and should not refer to the pleadings, or to depositions
16 or other documents, or to other interrogatories” *Id.* (quoting *Smith v.*
17 *Logansport Cmty. School Corp.*, 139 F.R.D 637, 650 (N.D. Ind. 1991); *see also*
18 *Pacific Lumber Co. v. Nat’l Union Fire Ins. Co. of Pittsburgh*, C 02-4799SBA(JL),
19 2005 WL 318811, at *4 (N.D. Cal. Jan. 5, 2005) (“Responding to an interrogatory
20 with a reference to another interrogatory or to a document or pleading is improper.”).
21 As such, the City’s responses to Interrogatory Nos. 2-8 are clearly deficient in
22 violation of Rule 33.

23 As noted, Defendant previously agreed to supplement its responses to
24 Interrogatory Nos. 2-8 (on three separate occasions), but has since decided to
25 maintain its objections and withhold responsive information. In its January 24, 2013
26 letter, in which it describes the bases for its objections, Defendant cites no case law
27 in support of its position that its responses to Interrogatory Nos. 2-8 are proper—
28 despite the Fair Housing Council’s invitation to do so. (*See* Ex. 3 to Allen Decl.,

1 1/24/13 Ltr. from City to Pl. at 7-9; Ex. 1 to Allen Decl., 1/8/13 Ltr. from Pl. to City
2 at 1.) Rather, the City has taken the position that it is not required to answer the Fair
3 Housing Council’s interrogatories “separately and fully” because the interrogatories
4 at issue seek the same information. The City’s contention is incorrect.

5 The Fair Housing Council’s Interrogatory Nos. 2-8 do not seek the same
6 information. For example, Interrogatory No. 5 seeks information about the policies
7 and/or procedures that the City has implemented to ensure that the Redevelopment
8 Housing Program contains units accessible to persons with disabilities; Interrogatory
9 No. 8, on the other hand, seeks information about the policies and procedures
10 implemented to ensure that any such accessible units are made available and actually
11 used by persons with disabilities. The Fair Housing Council has no way of
12 determining which part, if any, of the City’s sole response to Interrogatory No. 1
13 contains information responsive to either interrogatory. *See, e.g., U.S. ex rel.*
14 *O’Connell*, 245 F.R.D. at 650 (finding responses improper where it is “impossible to
15 determine whether an adequate answer has been given without an elaborate
16 comparison of answers.”). As the case law is clear that it is inappropriate for the
17 City to refer to Interrogatory No. 1, as opposed to providing separate and complete
18 answers; the Court should compel the City’s responses to Interrogatory Nos. 2-8.

19 **2. The City’s Argument**

20 In response to Interrogatory Nos. 2-8, the City referred Plaintiff to the City’s
21 detailed response to Interrogatory No. 1 because of the duplicative and overbroad
22 nature of the interrogatories – the City’s response to Interrogatory No. 1 was also
23 responsive to Interrogatory Nos. 2-8 because they sought the same information.
24 Interrogatory Nos. 1 through 8 are actually four pairs of interrogatories seeking
25 information regarding developments within, and outside of, the “Redevelopment
26 Housing Program,” which the City denies existed. The City provided federal funds
27 for the development of multi-family housing projects on a project-by-project basis.
28 The City objects to Plaintiffs’ attempt to create a “Redevelopment Housing

1 Program” because it specifically relates to the Plaintiffs’ burden of proof at trial and
2 the scope of the discovery requests. Interrogatory No. 1 requests that the City
3 identify any and all policies and/or procedures it has implemented to ensure
4 compliance with Section 504 of the Rehabilitation Act, HUD’s regulations at 24
5 C.F.R. Part 8, the Americans with Disabilities Act, the Federal Fair Housing Act,
6 and/or California Government Code § 11135 by any Owner Defendant, or any other
7 developer(s) and/or Subrecipient(s) that is involved in the Redevelopment Housing
8 Program. Interrogatory No. 2 requests the same information, but for entities outside
9 of the Redevelopment Housing Program. Interrogatory Nos. 3 and 4 request the
10 same information as Interrogatory No. 1 and 2, only they substitute the undefined
11 term “action” for “policies and/or procedures.” Interrogatory Nos. 5 and 6 ask the
12 City to identify any and all policies and/or procedures implemented to ensure that the
13 developments within, and outside of, the Redevelopment Housing Program contain
14 units accessible to those with disabilities. Interrogatory Nos. 7 and 8 ask the City to
15 identify any and all policies and/or procedures implemented to ensure that units
16 within, and outside of, the Redevelopment Housing Program are made available to,
17 and utilized by, people with mobility, visual or auditory impairments.

18 During the parties’ telephonic conference on January 16, 2013, Plaintiff
19 acknowledged that the interrogatories came in pairs, asking about action inside and
20 outside of the Redevelopment Housing Program. (Byrne Decl. ¶ 8.) Prior to
21 propounding discovery, Plaintiff knew that both the City and the CRA/LA denied the
22 existence of the “Redevelopment Housing Program” as Plaintiff defined that term.
23 Nevertheless, Plaintiff insisted on using the term to propound interrogatories that
24 were duplicative.

25 The Plaintiff’s requests are not just duplicative due to the use of the term
26 Redevelopment Housing Program, they are also duplicative due to the broad nature
27 of Interrogatory Nos. 1 and 2. Section 504 of the Rehabilitation Act, HUD’s
28 regulations at 24 C.F.R. Part 8, the Americans with Disabilities Act, the Federal Fair

1 Housing Act, and/or California Government Code § 11135 each carry specific anti-
2 discrimination requirements for a variety of protected classes, including disability.
3 Plaintiff's initial request is so overbroad that it covers the scope of anything and
4 everything the City may have done to ensure compliance with the statutes even
5 beyond the scope of this case.

6 Although the City initially indicated that it would provide supplemental
7 responses to Interrogatory Nos. 2-8 that did not refer to its response to Interrogatory
8 No. 1, as the City continued to compile responsive information, the duplicative and
9 overlapping nature of Plaintiff's overbroad requests became even more apparent.
10 The City could have done one of two things - repeat its answer to Interrogatory No. 1
11 in response to Interrogatory Nos. 2-8 creating a voluminous and unwieldy document,
12 or simply direct Plaintiff to Interrogatory No. 1. The City chose to do the latter.

13 Plaintiff cites *O'Connell v. Champan University*, 245 F.R.D. 646 (C.D. Cal.
14 2007), for the proposition that under no circumstances is it proper for an
15 interrogatory response to refer back to an earlier response. This is a clear
16 misstatement of the Court's ruling in *O'Connell*. The Court in *O'Connell* found that
17 Respondent's reference to her answer to Interrogatory No. 8 in responding to the
18 other interrogatories was improper because the interrogatories did "not seek
19 information identical" to Interrogatory No. 8. *Id.* at 650.

20 In addition, Plaintiff relies upon a partial quote from *O'Connell*. The
21 complete quote reveals a very different standard than the one Plaintiff asserts. The
22 *O'Connell* Court actually stated that a response "should be complete in itself and
23 should not refer to the pleadings, or to depositions, or other documents or to other
24 interrogatories, **at least where such references make it impossible to determine**
25 **whether an adequate answer has been given without an elaborate comparison of**
26 **answers."** *Id.* at 650. (Emphasis added indicating the text omitted by Plaintiff). It is
27 clear that the *O'Connell* decision does not stand for a blanket ban on references, but
28 was meant to ensure that a party does not have to engage in an elaborate comparison

1 of answers to non-duplicative interrogatories.

2 The Court should deny the Plaintiff's request to compel the City to amend its
3 responses to Interrogatory Nos. 2-8 because, due to the overbroad nature of
4 Interrogatory No. 1, any responsive information for Interrogatory Nos. 2-8 is
5 subsumed in the City's response to Interrogatory No. 1.

6

B. INTERROGATORY NOS. 1, 2, 5, 6, 7, 8, 9-25

7

1. Plaintiff's Argument

8

a. Plaintiff Has Not Exceeded the Permissible Number of Interrogatories

9

10 The City has refused to respond to the Fair Housing Council's Interrogatory
11 Nos. 9-25 because it contends that the preceding interrogatories are compound and,
12 therefore, the Fair Housing Council's interrogatories exceed the permissible number
13 of interrogatories allotted. Specifically, the City has taken the position that the Fair
14 Housing Council's definition of the term "Identify" (when used in reference to a
15 policy or procedure) contains four discrete subparts. As a result, the City has
16 counted each interrogatory that contains the term "Identify" as four, separate
17 interrogatories (namely, the Fair Housing Council's Interrogatory Nos. 1, 2, 5, 6, 7
18 and 8).

19 The Fair Housing Council's First Set of Interrogatories included a list of
20 definitions for various terms that the Fair Housing Council used in the
21 interrogatories. The Fair Housing Council provided the following definition of the
22 term "Identify" when used in reference to a policy or procedure:

23 Identify when used in reference to a policy or procedure means to state a
24 detailed description of the relevant policy and/or procedure, the date upon
25 which the policy and/or procedure was implemented, the name of any person
26 or entity charged with monitoring and/or oversight with respect to the policy
and/or procedure, the method by which Subrecipients were made aware of the
policy and/or procedure, and to identify any documents that contain the policy
and/or procedure."

27 In an attempt to narrow the discovery issues in dispute before the Court, the Fair
28 Housing Council agreed, in an e-mail correspondence dated February 25, 2013, to

1 modify its definition of the term “Identify” (when used in reference to a policy or
2 procedure) to withdraw the portion of the definition that asked the City to identify
3 documents that contain the policy and/or procedure at issue as part of its response.
4 (See Ex. 8 to Allen Decl., 2/25/13 E-mail from Pl. to City.) The City did not respond
5 to the Fair Housing Council’s e-mail and has not agreed to provide responses to
6 Interrogatory Nos. 9-25 in light of the Fair Housing Council’s offer to modify its
7 definition of the term “Identify.” The City’s objection that Interrogatory Nos. 1, 2, 5,
8 6, 7, and 8 are compound is without merit. The Court should overrule the City’s
9 objection and compel the City to respond to the Fair Housing Council’s Interrogatory
10 Nos. 9-25.

11 That an interrogatory contains “subparts” does not in and of itself make the
12 interrogatory impermissibly compound. See *Safeco of Am. v. Rawstron*, 181 F.R.D
13 441, 443 (C.D. Cal. 1998) (noting that “if all subparts count as separate
14 interrogatories, the use of interrogatories might be unduly restricted or requests for
15 increases in the numerical limit might become automatic.”). Specifically, if
16 interrogatory subparts are aimed toward eliciting details about a common theme and
17 are “logically or factually subsumed within and necessarily related to the primary
18 question,” the subparts should not be treated as separate questions. *Id.* at 444-45
19 (internal quotation marks, citation omitted); see also *Herndon v. Logan’s Roadhouse,*
20 *Inc.*, CV 11-1906, 2012 WL 3042982, at *1 (D. Ariz. July 25, 2012); *Paananen v.*
21 *Cellco P’ship*, C08-1042 RSM, 2009 WL 3327227, at *2 (W.D. Wash. Oct. 8, 2009).
22 For example, in *Paananen v. Cellco Partnership*, the plaintiff served an interrogatory
23 that asked the defendant the following:

24

25 For each owner, director, officer, employee, former employee, independent
26 contractor, and agent of any Defendant since 2005, inclusive, who has worked
27 as a co-worker, direct or second level superior, or direct or second level
28 subordinate to Plaintiff, state his or her full name, present or (if present
information is unavailable) last known address and telephone number, dates of
employment (including dates of application, hire, promotion, demotion, and

1 separation from the position, if applicable), job titles of positions held, and
2 duties and responsibilities of positions held.

3 2009 WL 3327227 *3. In overruling the defendant’s objection that this
4 interrogatory was compound, the Court found that the subparts (specifically, the
5 names of employee, dates of employment, job titles, and duties and responsibilities
6 for each position) all related to the “common theme” of employment history and
7 therefore should be treated as a single interrogatory. *Id.* Similarly, in the instant
8 case, the information that the Fair Housing Council has asked the City to provide,
9 which includes a detailed description of the policy and/or procedure, the date that the
10 policy and/or procedure was implemented, and specific information related to the
11 enforcement of the policy and/or procedure, relates to a single common theme
12 (namely, the specific policies and/or procedures requested for each interrogatory).
13 As such, the Fair Housing Council’s Interrogatory Nos. 1, 2, 5, 6, 7, and 8 should
14 each be treated as a single question.

15 During the course of the parties’ communications about discovery issues, the
16 City has cited to one case in support of its position: *Superior Communications v.*
17 *Earhugger, Inc.*, 257 F.R.D. 215 (C.D. Cal. 2009). *Superior Communications* is not
18 at all analogous to this case. In *Superior Communications*, the plaintiff issued an
19 interrogatory that asked the defendant to “state all of the facts that support or
20 undermine the allegations in [defendant’s] answer to the [c]omplaint,” as well as to
21 “identify all persons who have knowledge of those facts” and “all documents and
22 things that relate or refer to those facts.” *Id.* at 218. The court ultimately found that
23 the interrogatory consisted of discrete subparts—requesting facts, persons, and
24 documents for each fact related to allegations in the defendant’s answer. *Id.* The
25 case does not stand for the proposition that a subpart that requests information about
26 a person is automatically counted as a separate question, as the City appears to
27 suggest. For example, in *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684
28 (D. Nev. 1997), the court found an interrogatory that requested the defendant to

1 describe each warning/reprimand that the plaintiff was given during her employment,
2 to provide the date upon which the warning/reprimand was given, and to provide the
3 name of the person who issued the warning/reprimand (including the person's name,
4 gender, position, and address) to be a single interrogatory—even though it requested
5 information about the identity of a person, in addition to other factual information.
6 *Id.* at 686. In so holding, the court found that each of the supposed subparts were
7 “secondary” to the primary question that sought information about the
8 warning/reprimands that plaintiff received during the course of employment. *Id.*
9 Notably, the Rule 33 Advisory Committee Note specifically provides that “a
10 question asking about communications of a particular type should be treated as a
11 single interrogatory even though it requests the time, place, *persons present*, and
12 contents be stated separately for each such communication.” Fed. R. Civ. P. 33(a)
13 1993 Advisory Committee’s Note (emphasis added); *see also Dang v. Cross*, CV 00
14 13001 GAF(RZX), 2002 WL 432197, at *2-3 (C.D. Cal. Mar. 18, 2002) (requesting
15 party’s definition of the term “Identify” did not impermissibly divide
16 interrogatories).¹⁰ As such, whether the interrogatory asks the responding party to
17 provide information about a person does not necessarily mean it is compound; as
18 noted above, the question is whether the interrogatory subparts are aimed at a
19 common theme. As each “subpart” of the Fair Housing Council’s definition of the
20 term “Identify” when used in reference to a policy and/or procedure is aimed at
21 eliciting specific information about the policies and/or procedures the City
22 implemented, each interrogatory at issue should be treated as a single question and

23 ¹⁰ The Fair Housing Council provided a similar definition of the term “Identify”
24 when used in reference to communications. Specifically, the Fair Housing Council’s
25 definition of the term “Identify” when used in reference to communications means to
26 “state the method of communication (*i.e.*, in person, by telephone, or in writing), the
27 address of the place of the communication if it was in person, the names of all people
28 who were present and their titles and places of employment, the general purpose of
the communication, and the substance of what was communicated.” In its general
objections, the City similarly objected that the Fair Housing Council’s definition of
the term “Identify” when used in reference to a communication on the grounds that it
is compound and contains five subparts.

1 the City should be ordered to provide responses to Interrogatory Nos. 9-25.

2 **2. The City's Argument**

3 Rule 33 limits the number of interrogatories that a party can serve to twenty-
4 five. The numerical limit was imposed in recognition that, although interrogatories
5 may be a valuable discovery tool, “the device can be costly and may be used as a
6 means of harassment . . .” *See* 1993 Advisory Committee Note to Fed. Rule Civ.
7 Proc. Rule 33. The 1993 Advisory Committee Note on Rule 33 also states “Parties
8 cannot evade this presumptive limitation through the device of joining as “subparts”
9 questions that seek information about discrete separate subjects.”

10 In the Interrogatories, Plaintiff provided five different definitions of
11 “Identify.” When used in reference to a policy or procedure, Plaintiff defined
12 “Identify” as follows:

13 Identify when used in reference to a policy or procedure means to state a
14 detailed description of the relevant policy and/or procedure, the date upon
15 which the policy and/or procedure was implemented, the name of any person
16 or entity charged with monitoring and/or oversight with respect to the policy
and/or procedure, the method by which Subrecipients were made aware of the
policy and/or procedure, and to identify any documents that contain the policy
and/or procedure.”

17 The City contends that this definition of “Identify” requests four distinct pieces of
18 information: 1) a detailed description of the relevant policy and/or procedure and the
19 date upon which the policy and/or procedure was implemented, 2) the person or
20 entity charged with monitoring and/or oversight with respect to the policy and
21 procedure, 3) the method by which Subrecipients were made aware of the policy
22 and/or procedure, and 4) any documents that contain the policy and/or procedure.¹¹

23 As a result, each interrogatory asking the City to “identify all policies and/or
24

25 ¹¹ On February 25, 2013, Plaintiff offered to modify the definition of
26 Identify by withdrawing the portion of the definition asking the City to
27 identify documents that contain the policy or procedure. (*See* Ex. 8.)
28 However, Plaintiff’s offer to withdraw one of the four subparts did not
resolve the City’s objection to the term “Identify.” Counsel for
Plaintiff stated that if the City maintained its objections, it should
provide its response in the draft stipulation. (*Id.*)

1 procedures,” at a minimum, count as four separate interrogatories.¹²

2 The courts generally agree that “interrogatory subparts are to be counted as
3 one interrogatory . . . if they are logically or factually subsumed within and
4 necessarily related to the primary question.” *Safeco of America v. Rawstorm*, 181
5 F.R.D. 441, 445 (C.D. Cal. 1998) (citing *Kendall v. GES Exposition Services, Inc.*,
6 174 F.R.D. 684, 685 (D.Nev. 1997)). It is clearly established within the Circuit,
7 however, that interrogatories that seek information regarding separate subjects are
8 considered compound and count as separate interrogatories for each discrete subpart
9 contained within the interrogatory. See *Hasan v. Johnson* 2012 WL 569370 *4 (E.D.
10 Cal. Feb. 21, 2012); *Kendall v. GES Exposition Services Inc.*, 174 F.R.D 684, 686
11 (D. Nev. 1997); *Collaboration Properties, Inc. v. Polycom, Inc.*, 224 F.R.D. 473, 475
12 (N.D. Cal. 2004); *Superior Communications v. Earhugger, Inc.* 257 F.R.D. 215, 218
13 (C.D. Cal. 2009).

14 In *Hasan*, the Court found that an interrogatory seeking the *entity* where the
15 defendant worked, the defendant’s *duties*, and defendant’s *supervisor*, contained
16 three distinct subparts with different themes. The Court also determined that
17 interrogatories that sought the facts upon which a denial was based, the identity of
18 each person who had knowledge of those facts, the documents upon which the denial
19 was based and the identity of each person who had possession or control of those
20 documents contained four distinct subparts with different themes. *Hasan v. Johnson*
21 2012 WL 569370 *4-5.

22 In *Superior Communications*, the Court considered an interrogatory that asked
23 the defendant to:

24 _____

25 ¹² Interrogatory Nos. 1-4 ask the City to identify policies and procedures
26 implemented, or actions taken, to ensure compliance with respect to six
27 enumerated statutes or regulations. The City could reasonably take the
28 position that each of the interrogatories contained six subparts on that
basis. However, the City conservatively counted Interrogatory Nos. 1,2
and 5-8 as each containing four separate interrogatories based upon the
Plaintiff’s use of the term “Identify.”

1 State all of the facts that support or undermine the allegation in YOUR answer
2 to the Complaint. Identify all PERSONS who have knowledge of these facts.
3 Identify all DOCUMENTS and things that RELATE or refer to those facts. (*id*
4 218)

5 The Court held that the interrogatory had at least three distinct subparts - facts,
6 persons and documents – and along with the other interrogatories that were
7 propounded, caused the total to exceed the number allowed by Rule 33. In reaching
8 its decision, the Court cited *Trevino v. ACB Am., Inc.*, 232 F.R.D. 612, 614 (N.D.Cal.
9 2006). In *Trevino*, the court held that an interrogatory asking defendant to identify
10 each person they expected to call as expert witness at trial, state the subject matter on
11 which the expert was expected to testify and the substance of the facts and opinions
12 to which the expert was expected to testify, and provide a summary of the grounds
13 for each opinion and the expert’s qualifications constituted three separate
14 interrogatories. *Trevino*, 232 F.R.D. at 614. The Court also cited *The Banks v.*
15 *Office of the Senate Sergeant-At-Arms*, 222 F.R.D. 7, 10 (D.D.C.2004), which found
16 that an “obvious example” of a discrete subpart

17 is the combining in a single interrogatory of a demand for information
18 and a demand for the documents that pertain to that event. Clearly, these
19 are two distinct demands because knowing that an event occurred is
20 entirely different from learning about the documents that evidence it
21 occurred. Thus, a demand for information about a certain event and for
22 the documents about it should be counted as two separate
23 interrogatories.

24 Contrary to Plaintiff’s assertion, the City does not attempt to suggest that
25 *Superior Communications* stands for the proposition that requesting information
26 regarding a person is automatically counted as a subpart, but it certainly can. Unlike
27 an interrogatory that asks a party to identify those individuals present as part of
28 describing a communication that took place, here, Plaintiff asks the City to identify

1 the person responsible for oversight or monitoring of each policy or procedure
2 identified by the City, which is a separate inquiry from a description of the policy or
3 procedure. Accordingly, it should be counted as a separate interrogatory.

4 In an attempt to further distinguish *Superior Communications*, Plaintiff cites
5 *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684 (D. Nev. 1997). However,
6 the court in *Kendall* also found examples of “independent questions being
7 improperly combined into one interrogatory (sometimes by using “and” or “also” to
8 join the questions)” *Id.* at 686. In *Kendall*, one of the interrogatories at issue asked
9 the responding party to “Identify fully the minimum qualifications for an employee
10 to be hired onto ‘freight,’ including, but not limited to, the ability to drive heavy
11 machinery, experience in the industry, and all other criteria used by Defendants.
12 Also, identify any document in which these qualifications are articulated.” *Id.* at 686.
13 The court determined that the first question sought a description of qualifications and
14 the second question asked for a description of documents. The court stated that
15 because the first question could be answered fully and completely without answering
16 the second question, the second question was independent and not “factually
17 subsumed within and necessarily related to the primary question.” *Id.* at 685. *Kendall*
18 is part of the progeny of cases preceding *Superior Communications* finding that if a
19 question can be answered fully and completely without answering the second
20 question the second question is totally independent and is a discrete subpart. *See*
21 *also Dang v. Cross*, 2002 WL 432197, *2-3 (C.D. Cal. Mar. 18, 2002) (noting that
22 to determine if the subpart was necessarily related to the primary question, courts ask
23 whether “the subsequent question [could] stand alone[,]” *quoting Safeco*, 181 F.R.D.
24 at 455 (*quoting Kendall* 174 F.R.D. at 685).)

25 In support of its’ position that the interrogatories are related to the primary
26 question and should not be determined to be discrete subparts, the Plaintiff discusses
27 *Paananen v. Cellco Partnership*, 2009 WL 3327227 *2 (W.D. Wash. October 8,
28 2009). *Paananen*, however, stands for the proposition that even when subparts relate

1 to a common theme they could be found to be compound and not treated as a single
2 interrogatory. In *Paananen*, the plaintiff served the following interrogatory:

3 For the first affirmative defense asserted in Defendant’s Answer, briefly
4 summarize the facts upon which it is based, state all facts in support of the
5 affirmative defense; identify (see definition) all person with knowledge you
6 contend supports that defense; and identify (see definition) any documents
7 directly relating to that defense. *Id.* *3.

8 The Court found the interrogatory contained two distinct subparts and that
9 “[e]ven though two inquires do relate to the same theme, neither is subsumed within
10 the other because the inquiry into the facts supporting a defense can be answered
11 fully and completely without identifying the documentary support for those facts.”
12 *Id.**3. In this case, Plaintiff’s request for four distinct and separate pieces of
13 information that share a similar theme meet the standard set forth in *Paananen* that
14 the subparts with a common theme are considered to have discrete subparts when the
15 subparts can be answered fully alone.

16 The City requests that the Court deny the Plaintiff’s request to treat
17 interrogatory numbers 1, 2 and 5 through 8 as single questions because the manner in
18 which Plaintiff defined “Identify” when used in relation to a policy and procedure
19 creates four distinct subparts, each of which can stand alone and count as separate
20 interrogatories. The City also requests the Court deny Plaintiff’s request that the
21 City be ordered to provide responses to Interrogatories nine through twenty-five
22 because they exceed the number allowed under Rule 33.

23

24 C. VERIFICATIONS

25 1. Plaintiff’s Argument

26 Additionally, the City has produced no verifications for its interrogatory
27 responses; the City’s interrogatory responses bear only the signature of counsel.
28 Rule 33(b) requires that each interrogatory be answered under oath and that the

1 answers be signed by the person making them, in addition to being signed by
2 counsel. Fed. R. Civ. P. 33(b)(1), (5); *see also, U.S. ex rel. O’Connell v. Chapman*
3 *Univ.*, 245 F.R.D. 646, 650 (C.D. Cal. 2007). Fair Housing Council requested that
4 the City provide the appropriate verifications in its initial discovery letter to the City
5 on January 8, 2013. (*See* Ex. 1 to Allen Decl.) To date, the City has not produced
6 the appropriate verifications. The Fair Housing Council seeks an order from the
7 Court ordering the City to produce the outstanding verifications that Plaintiff has
8 requested.

9 **1. The City’s Argument**

10 On February 22, 2013, the City provided Supplemental Objections and
11 Responses to Plaintiff’s First Set of Interrogatories. On March 18, 2013, the City
12 provided Plaintiff with the requested verifications.

13 **IV. REQUESTS FOR ADMISSION AT ISSUE**

14 **RFA 185:** An Assistant City Attorney attended meetings of the DTF [defined as
15 “Disability Task Force to address, *inter alia*, issues of accessibility in the
16 Redevelopment Housing Program” in RFA 181].

17 **CITY RESPONSE:**

18 The City objects to this request on the grounds that it seeks information from
19 the CRA/LA, not the City, and the City is not in a position to admit or deny the
20 request on behalf of the CRA/LA. On February 1, 2012, the CRA was dissolved
21 pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated Local
22 Authority (not the City) became the successor to the CRA/LA.

23 **RFA 190:** Assistant City Attorney Curt Kidder responded to the aforementioned
24 requests for location of any and all UFAS-accessible units by suggesting that
25 CRA/LA did not have any obligation to ensure that UFAS-accessible units existed
26 within the Redevelopment Housing Program.

27

28 **CITY RESPONSE:**

1 The City objects to this request on the grounds that it seeks information from
2 the CRA/LA, not the City, and the City is not in a position to admit or deny the
3 request on behalf of the CRA/LA. On February 1, 2012, the CRA was dissolved
4 pursuant to California Assembly Bill 1X 26 and the CRA/LA Designated Local
5 Authority (not the City) became the successor to the CRA/LA.

6 **1. Plaintiff's Argument**

7 **a. The Court Should Order The City to Conduct the Required**
8 **Inquiry Necessary to Respond to Requests for Admission Nos.**
9 **185 and 190**

10 Request No. 185 seeks an admission that a City employee, specifically, an
11 Assistant City Attorney, attended meetings of the Disability Task Force. Request
12 No. 190 seeks an admission that “Assistant City Attorney Curt Kidder responded to
13 the aforementioned requests for location of any and all UFAS-accessible units by
14 suggesting that DLA did not have any obligation to ensure that UFAS-accessible
15 units existed within the Redevelopment Housing Program.” The City has refused to
16 respond to these requests. In the course of the communications that the parties have
17 had regarding discovery issues, the City has informed the Fair Housing Council that
18 the Assistant City Attorney referenced in the Fair Housing Council’s Requests Nos.
19 185 and 190 sat by designation at the DLA and served as counsel to the DLA. As
20 such, the City has taken the position that the requests seek information from the
21 DLA, not the City, and that the City is not in a position to admit or deny on behalf of
22 the DLA. The Fair Housing Council’s Requests Nos. 185 and 190 were properly
23 directed to the City; the Court should compel the City to provide a response to these
24 requests.

25 As an initial matter, it is important for the Fair Housing Council to point out to
26 the Court that the Fair Housing Council has made significant compromises in an
27 effort to narrow the parties’ dispute over the Fair Housing Council’s Requests for
28 Admission as much as possible. In its initial responses to the Fair Housing Council’s
Requests for Admission, the City refused to provide responsive information to over

1 120 of the Fair Housing Council’s requests. For purposes of this joint stipulation,
2 the Fair Housing Council decided to abandon its efforts to secure responses to the
3 overwhelming majority of these requests and re-phrased several of its requests to
4 address specific concerns raised by the City. As such, the Fair Housing Council
5 successfully reduced the number of requests for admission in dispute from well over
6 100 to the two requests at issue in this Motion. With respect to the two requests for
7 admission in dispute, it is the Fair Housing Council’s contention that the City has
8 taken an unreasonable position in refusing to respond to these requests—specifically
9 given that the requests seek information about an Assistant City Attorney.

10 The Fair Housing Council’s requests are properly directed to the City and do
11 not ask the City to admit or deny anything on behalf of the DLA. Rather, due to the
12 City’s relationship with the DLA, it is the Fair Housing Council’s position that they
13 City should possess or have access to information that would enable it to respond to
14 the Fair Housing Council’s requests—especially given that the requests specifically
15 seek information about City employees. As such, the Fair Housing Council’s
16 Requests Nos. 185 and 190 seek information that the Fair Housing Council believes
17 is both known and “readily obtainable” by the City. *See* Rule 36; *see also* *A. Farber*
18 *& Partners, Inc. v. Garber*, 237 F.R.D. 250, 253-54 (C.D. Cal. 2006).

19 Further, Rule 36 “requires the responding party to make a reasonable inquiry,
20 a reasonable effort, to secure information that is readily obtainable from persons and
21 documents within the responding party’s relative control.” *A. Farber & Partners,*
22 *Inc.*, 237 F.R.D. at 254 (internal citation omitted). This inquiry requires the
23 responding party to conduct “an investigation and inquiry of employees, agents, and
24 others, who conceivably, but in realistic terms, may have information which may
25 lead to or furnish the necessary and appropriate response.” *Id.* The Fair Housing
26 Council believes, and is concerned that, counsel for the City has not even conducted
27 the required inquiry of their client to determine whether the City has information that
28 would enable it to respond to this request. During the course of the communications

1 the parties have had regarding these requests, the City has never represented that it
2 conducted a diligent search for the requested information and that it lacked the
3 information necessary for it to respond; rather, its objections have been aimed toward
4 the form of the question. In fact, in its February 14, 2013 letter, the City informed
5 the Fair Housing Council that if the Fair Housing Council had specific information
6 about a representative from the City (presumably other than the Assistant City
7 Attorney referenced in the requests), counsel for the City would conduct an inquiry
8 of its client. The Fair Housing Council is confused as to why such an inquiry has not
9 occurred. It is the City, and not the Fair Housing Council, that is in the best position
10 to identify whether representatives of the City were present for the meetings at issue.
11 Additionally, the City's source of information regarding these requests, whether the
12 source is a City attorney or some other City employee or source, is immaterial. The
13 request seeks information about what the City knows. If the information is
14 obtainable to Defendant upon a reasonable inquiry, Defendant is required to provide
15 an answer; it cannot simply cannot refuse to conduct the required inquiry. *See, e.g.,*
16 *Asea, Inc. v. S. Pac. Transp. Co.*, 669 F.2d 1242, 1247 (9th Cir. 1981) (holding that a
17 response that fails to admit or deny a request for admission does not comply with
18 Rule 36 if the responding party "has not, in fact, made 'reasonable inquiry,' or if
19 information 'readily obtainable' is sufficient to enable [the party] to admit or deny
20 the matter"). At the very least, the Fair Housing Council requests that the Court
21 order the City to conduct the required inquiry of its client to ascertain whether it has
22 the information necessary to respond to Plaintiff's requests.

23 2. The City's Argument

24 Plaintiff originally served 205 Requests for Admission on the City, of which
25 over 150 sought information from defendant CRA/LA. For example, Request No. 45
26 stated, "The CRA/LA has never conducted a Section 504 self-evaluation pursuant to
27 24 C.F.R. § 8.51" (Ex. 10.) The City objected to Request Nos. 45-46, 60-180, 185,
28 190, and 198 on the grounds that they sought information "from the CRA/LA, not

1 the City, and the City is not in a position to admit or deny the request on behalf of
2 the CRA/LA. On February 1, 2012, the CRA was dissolved pursuant to California
3 Assembly Bill 1X 26 and the CRA/LA Designated Local Authority (not the City)
4 became the successor to the CRA/LA.”

5 The function of Requests for Admission is to narrow the scope of the case by
6 removing issues from the case once and for all. *See* Adv. Comm. Note to 1970
7 Amendment to FRCP 36 (“Rule 36 serves two vital purposes, both of which are
8 designed to reduce trial time. Admissions are sought, first to facilitate proof with
9 respect to issues that cannot be eliminated from the case, and secondly, to narrow the
10 issues by eliminating those that can be.”). Magistrate Judge Wistrich considered the
11 limited purpose of Requests for Admission in *Safeco of America v. Rawstron*:

12 Their goal “is to eliminate from the trial matters as to which there is no
13 genuine dispute.” *People of State of California v. The Jules Fribourg*,
14 19 F.R.D. 432, 436 (N.D.Cal.1955). Therefore, requests for admissions
15 are not principally discovery devices, see 8A Charles Alan Wright,
16 Arthur R. Miller & Richard L. Marcus, § 2252, at 524–525 (“Strictly
17 speaking Rule 36 is not a discovery procedure at all, since it
18 presupposes that the party proceeding under it knows the facts or has the
19 document and merely wishes its opponent to concede their genuineness.
20 A party who desires to discover what the facts are should resort to other
21 discovery rules rather than Rule 36.”) (footnotes omitted), and they “are
22 not to be treated as substitutes for discovery processes to uncover
23 evidence....” *The Jules Fribourg*, 19 F.R.D. at 436.

24 *Safeco of America v. Rawstron*, 181 F.R.D. 441, 445 (C.D.Cal. 1998). In light of
25 their limited purpose and due to their binding nature, requests seeking admissions
26 regarding a party’s actions should be directed to that party.

27 Plaintiffs sought to meet and confer on Requests for Admission Nos. 45-46,
28 60-180, 185, 190, and 198. (*See* Ex. 1.) During the January 16th teleconference, the

1 City explained that those requests clearly sought information regarding the actions of
2 the CRA/LA and should be directed to the CRA/LA, not the City. However, to the
3 extent that Plaintiff thought it was relevant that the City had knowledge of a
4 particular act by the CRA/LA, the City agreed to respond to amended requests
5 seeking that information from the City. (Byrne Decl. ¶ 9.) Plaintiff's counsel
6 appeared to agree to amend the requests for admission to seek information regarding
7 the City's knowledge of the CRA's actions and the City agreed to respond to the
8 amended requests provided it agreed with Plaintiff's rewording of the requests. The
9 City confirmed this understanding in its letter dated January 24, 2013. (Ex. 3, p. 12.)
10 Plaintiff's representation that Plaintiff has made "significant compromises" in an
11 effort to narrow the parties' discovery dispute over the Requests for Admission it
12 propounded is misleading. The City did not flatly refuse without merit or proper
13 justification to respond to the requests as they were originally worded. Rather, it
14 raised an appropriate objection and attempted in good faith to reach an agreement
15 with the Plaintiff so that it could provide responses.

16 On February 6, 2013, Plaintiff amended Request Nos. 45, 46, and 198 to
17 reflect the City's knowledge of actions by the CRA/LA. (See Ex. 4.) For example,
18 Plaintiff amended Request No. 45 that originally stated, "The CRA/LA has never
19 conducted a Section 504 self-evaluation pursuant to 24 C.F.R. § 8.51" to "The City
20 is aware that CRA/LA has never conducted a Section 504 self-evaluation pursuant to
21 24 C.F.R. § 8.51." Plaintiff did not amend any of the remaining interrogatories that
22 sought information regarding the CRA/LA's actions notwithstanding the City's offer
23 to respond to the requests for admission if they were amended to seek information
24 regarding the City's knowledge of the CRA/LA's actions. On February 22, 2013,
25 the City responded to Amended Requests for Admission Nos. 45, 46 and 198. (See
26 Byrne Decl. ¶12, Ex. 12.)

27 Plaintiff now seeks to compel the City to respond to Requests for Admission
28 Nos. 185 and 190, which are directed at the actions of the CRA/LA. Request No.

1 185 seeks an admission that an Assistant City Attorney attended meetings of the
2 Disability Task Force, referring to a task force convened by the CRA/LA to address
3 issues of accessibility. (See Ex. 10 (RFAs 181 & 185).) Pursuant to the Los Angeles
4 Administrative Code, a Deputy City Attorney served as General Counsel for the
5 CRA/LA and the CRA/LA was responsible for the full costs of the general counsel
6 services provided by the City Attorney’s Office. Los Angeles Admin. Code
7 §8.99.03. Request No. 190 seeks an admission regarding a statement purportedly
8 made by the Deputy City Attorney who served as the General Counsel to the
9 CRA/LA at a meeting of the Disability Task Force. (Ex. 2, p. 12.)

10 Plaintiff asserts that the mere fact counsel for the CRA/LA was an employee
11 of the City, the information becomes both known and “readily obtainable” by the
12 City. In support of this assertion, Plaintiff directs the Court to Rule 35 and *A. Farber*
13 *& Partners, Inc. v. Garber*, 237 F.R.D. 250, 253-54 (C.D. Cal. 2006). Plaintiff
14 misses the point. Given the purpose that requests for admission are meant to serve,
15 requests seeking information regarding the CRA/LA’s action should be directed to
16 the CRA/LA, not the City.

17 Further, in *Farber*, the Court looked to the close personal and business
18 relationships between the defendants and the fact that they were represented by the
19 same counsel, to find that a reasonable “inquiry of the other defendants represented
20 by the same counsel, is a clear ‘evasion’ of that party’s obligations under Rule
21 36(a).” *Id.* at 256. Furthermore, *Farber* held that a party is required to make an
22 inquiry of a third party “when there is some identity of interest manifested, such as
23 by both being parties to the litigation . . . and when there is **no manifest or potential**
24 **conflict** between the party and the third party.” *Id.* at 254 (*emphasis added*) (*quoting*
25 *Uniden America Corp. v. Ericsson, Inc.*, 181 F.R.D. 302, 304 (M.D. NC 1998).

26 Unlike the parties in *Farber*, there is a conflict between the CRA/LA and the
27 City in this case as manifested by the City’s crossclaim against the CRA/LA and
28 even more prominently by the fact that the City Attorney’s Office withdrew as

1 counsel in this matter due the conflict, and the City and the CRA/LA are now
2 represented by separate counsel. Although Plaintiff is aware of this conflict, Plaintiff
3 has persisted in insisting that the City answer the Requests for Admission in their
4 current form. The City offered to respond to Request Nos. 185 and 190 if they were
5 amended to reflect the knowledge of the City, a suggestion that has been ignored by
6 Plaintiff for these requests, but was deemed appropriate for Request Nos. 45, 46 and
7 198.

8 In support of its request, Plaintiff cites *Asea, Inc. v. S. Pac. Transp. Co.*, 669
9 F.2d 1242, 1247 for the proposition that a response that fails to admit or deny a
10 request for admission does not comply with Rule 36 if the responding party has not
11 made a reasonable inquiry, or if they have information “readily obtainable” that
12 would enable them to admit or deny the matter. *Asea*, however, is clearly
13 distinguishable as it dealt with a situation where the party upon which the admissions
14 were served refused to supplement its responses after coming into more information
15 that would have enabled it to supply more appropriate responses.

16 The City requests that the Court deny the Plaintiff’s motion to compel
17 responses to Requests for Admission Nos. 185 and 190 because they are directed to
18 the CRA/LA.

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1 Dated: March 22, 2013

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Respectfully submitted,

/s/ Michael G. Allen
MICHAEL G. ALLEN*
D. SCOTT CHANG #146403
RELMAN, DANE & COLFAX PLLC
1225 19th St. NW, Suite 600
Washington D.C. 20036
Telephone: (202) 728-1888
Facsimile: (202) 728-0848
schang@relmanlaw.com

* Application for admission *pro hac vice*
approved by court order Doc. No. 15

/s/ Mark A. Byrne
Mark A. Byrne
Jennifer L. Derwin
BYRNE & NIXON LLP
888 West Sixth Street, Suite 1100
Los Angeles, CA 90017
markbyrne@byrnenixon.com
jenniferderwin@byrnenixon.com

Attorneys for Defendant City of Los Angeles

Filing counsel for Plaintiffs certifies that counsel for all parties listed above concur in the content of this document, and have authorized counsel for Plaintiffs to file this document using the Court's CM/ECF system.

**CERTIFICATE OF SERVICE
CENTRAL DISTRICT OF CALIFORNIA**

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I hereby certify that on this 22nd day of March, 2013, I filed the foregoing Joint Stipulation by Plaintiff Fair Housing Council of San Fernando Valley and Defendant City of Los Angeles, California Re: Discovery via the Court's CM/ECF filing system, which shall serve as notice of such filing on all counsel of record.

/s/ Michael G. Allen
Michael G. Allen