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### Court Upholds California Law Limiting Local Governments' Ability to Deny Housing Development Applications

In a major recent decision, the California Court of Appeal rejected a city's interpretation of what constitutes an "objective" standard under the Housing Accountability Act (HAA), Government Code section 65589.5, and upheld the constitutionality of the law and amendments that strengthened it.<sup>[1]</sup> The opinion in *California Renters Legal Advocacy and Education Fund v. City of San Mateo* reinforces and upholds significant limitations imposed by the HAA on local consideration of housing development applications.

The HAA tightly restricts a local government's ability to disapprove a proposed housing development that "complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards." In 2017, the California Legislature passed the first of several packages of bills designed to increase housing supply by, among other approaches, strengthening the HAA. One of the 2017 bills bolstered the HAA's objective standards restriction by adding subdivision (f)(4) to Government Code section 65589.5. This subdivision provides that a housing development project is deemed to comply with an applicable standard if "substantial evidence ... would allow a reasonable person to conclude" that it does.

In *California Renters*, the City of San Mateo (City) denied an application to construct a four-story, ten-unit multifamily residential building. The court first concluded that the City's denial of the project failed to comply with the HAA. The court then considered and rejected arguments that subdivision (f)(4) was unconstitutional and, in the process, held that the HAA, as a whole, did not impermissibly infringe on charter cities' rights to control their own municipal affairs.

#### **Compliance With "Objective" Standards**

In denying the development application, the City made findings that the project failed to comply with adopted design guidelines. Yet the court determined that the relevant guidelines were not objective standards under the HAA due to their ambiguous language and lack of specificity, and, therefore, could not support disapproval of the housing project.

The guidelines provided that "a transition or step in height is necessary" if the height of adjacent buildings varies by more than one story. According to the City, a two-story differential between the proposed structure and adjacent single-family dwellings required a "stepback" in building height to comply with the guidelines.

The court determined that objective standards under the HAA do not include those that require "personal interpretation" or "subjective judgment," and the court held that these design guidelines failed this test. The guidelines were unclear, the court determined, as to whether a stepback in height was required or, alternatively, if a "transition" in height provided by the project's large trees and trellises could be sufficient. Further, to the extent the guidelines required a stepback in height, they failed to specify how extensive that stepback must be.

#### **Constitutionality of the HAA**

The court next upheld the constitutionality of the HAA against three arguments raised by the City. In its most significant ruling, the court disagreed with the City that the HAA and its amendments infringed on the City's right to "home rule," or control of its own municipal affairs as a charter city. Citing legislative findings and the

HAA's express purpose of ameliorating the housing crisis, the court concluded that the HAA "patently addresses a matter of statewide concern"—increasing the state's housing supply. Further, the court held, the HAA is "narrowly tailored" to avoid unnecessary interference in local governance. While the HAA limits local agencies' ability to reject new housing based on subjective criteria, the law leaves them free to establish compliant objective policies and development standards to meet local needs.

The court also rejected the City's contentions that subdivision (f)(4) of the HAA unconstitutionally delegates municipal functions and violates the due process rights of neighboring landowners. The court reasoned that the new statutory provision does not cede municipal authority to private persons, nor does it prevent neighbors from having a meaningful opportunity to be heard.

## Conclusion

For the second time this year, the Court of Appeal both has rejected a charter city's interpretation of a key state housing law and has upheld the law's constitutionality against a "home rule" challenge. The *California Renters* court echoed the reasoning the court adopted in April when it upheld Senate Bill 35 streamlining against similar challenges. Together, the decisions demonstrate a continued recognition by the courts that all local governments must comply with state housing law.

This update was published in *American Planning Association: California Chapter Northern News* "[Calif. Court Upholds Limiting Local Governments' Ability to Deny Housing Developments](#)" on 09.20.2021.

## Endnotes

[1] *California Renters Legal Advocacy and Education Fund v. City of San Mateo*, Nos. A159320, A159658 (1st Dist. Sept. 10, 2021).

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