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Housing Accountability Act Provision That Prohibits an Agency From Requiring a Rezoning When Zoning Is Inconsistent with the General Plan Inapplicable Where City Found Zoning Consistent



A court rejected a developer's attempt to take advantage of provisions in the Housing Accountability Act that prohibit a City from requiring a rezoning when zoning is inconsistent with the General Plan.

It upheld Los Angeles' determination that the existing zoning was consistent with the General Plan, even though the zoning was not expressly listed as a "corresponding zone" for the applicable General Plan land use designation and the existing zoning allowed less development than the "corresponding zones" that were listed in the Plan. *Snowball West Investments v. City of Los Angeles*, No B314750 (2nd Dist., Oct., 2023).

Snowball West Investments proposed 215 homes in Los Angeles. The existing zoning for the site was RA and A1, and Snowball requested that it be rezoned to RD5 and R1 to allow its proposed higher density. The City's General Plan included community plans, and the community plan applicable to the property designated the site Low Residential and Low Medium I. For each land use designation, the community plan listed "corresponding zones" that were deemed consistent. It did not expressly list the existing zoning districts, but included a footnote stating that each land use category includes the zones expressly listed as well as any more restrictive zones not listed.

The City denied Snowball's rezoning application. Snowball then asked the City to accept and process the Project's approved Vesting Tentative Tract Map for clearance of conditions required for Final Map approval, arguing that under the Housing Accountability Act (HAA), no rezoning could be required. The City refused, and Snowball filed a petition for writ of mandate. Californians for Home Ownership and the California Building Industry Association filed amicus briefs in support of Snowball's position.

The court sided with the City. It ruled that the City acted within its discretion in concluding that the community plan footnote meant the existing zoning was consistent. It rejected the argument by Snowball and Amici that the City violated the spirit of the HAA by relying on low-density zoning to deny this housing project. "[C]ompliance

with the HAA does not mean that every proposed project must be approved or that maximum allowable density must be allowed at every site."

Snowball also argued that the City was required to make findings under Government Code section 65589.5(j) of the HAA when denying the rezoning. The court noted that subdivision (j) requires certain findings for denial of a housing project only when the project complies with applicable zoning in effect at the time the development application is complete. Here, the project did not comply with the existing zoning. Finally, Snowball argued that the City's denial of its rezoning application was based on invalid findings under the City's municipal code, which were also lacking evidentiary support. The court found the City Council's decision, which adopted findings made by other City bodies, sufficient. It also held that they were supported by a voluminous record documenting problems that could result from the rezoning, including inconsistency with the density of surrounding properties and concerns about the ability to evacuate in the event of a wildfire.

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