

Communication from Public

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Date Submitted: 04/21/2026 10:03 AM
Council File No: 15-1138-S42
Comments for Public Posting: Please see attached comment letter from our lawfirm regarding the Venice Dell Project in Council District 11.



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April 21, 2026

VIA EMAIL

Honorable Chair Raman and Committee Members
Housing and Homelessness Committee
City of Los Angeles
c/o City Clerk
200 N Spring St, Room 360
Los Angeles, CA 90012

Re: HCD Letter of Inquiry – Venice Dell Project (Council File #15-1138-S42)

Dear Honorable Chair Raman and Committee Members:

We are writing this letter to address this Committee’s justified concerns over a highly critical and deeply concerning letter of inquiry the City of Los Angeles (“City”) received from the Department of Housing and Community Development (“HCD”) on October 3, 2025 (“HCD Letter”) regarding the City’s ongoing treatment of the Venice Dell affordable housing project (“Project”). Our firm does not represent the Project applicants nor do we have any financial stake in the outcome. However, we do have a stake in the City’s continued ability to develop housing, and for that reason we feel compelled (and frankly obligated) to sound an alarm regarding the severe and imminent consequences the City may face for stated violations of State Housing Element Law.¹ **In short, the City could forfeit its official “Pro-Housing” designation, lose access to hundreds of millions in funding each year for both the City’s Inside Safe Program and affordable housing construction, be liable for exorbitant fines, and be forced to relinquish local control—via the Builder’s Remedy—over its ability to alter or deny qualifying housing projects.**

We have frankly *never* seen HCD take such an unequivocal and threatening posture towards the City of Los Angeles on a matter related to a local state housing law violation. The City deserves credit for taking recent steps to combat the Citywide housing crisis by adopting the Comprehensive Housing Incentive Program (“CHIP”) as part of its Housing Element implementation effort. Given all this effort, it seems incredibly reckless and counterproductive for the City to risk putting its Housing Element out of compliance and expose itself to massive penalties and potential loss of local zoning control all in a no holds barred campaign to kill one affordable housing project. Even if the City is now having buyer’s

¹ Gov. Code §§ 65580, *et seq.*

remorse over the approval of the Project, flirting with Housing Element decertification to stop 120 affordable homes in Venice – in light of the severe consequences – is sheer municipal malpractice.

Since approval of the Project by the City Council, the City has taken various actions in connection with the Project in blatant violation of State Housing Element Law, including violations of the City's own Housing Element and the Housing Accountability Act ("HAA"),² which could result in steep fines and devastating consequences, including but not limited to, stripping the City of its "Pro-Housing" designation and even decertification of its Housing Element, if the City does not course correct. As detailed below, given the strength of State Housing law today, such action carries significant risk, exposure and potentially dire consequences for the City.

I. Violations of the City's Own Housing Element

The HCD Letter articulates that the City has violated specific Housing Element Policies and Programs. Specifically, the City is violating policies calling on the City to streamline affordable housing throughout City departments (Policy 1.2.5), prioritize the development of affordable housing on public land (Policy 1.2.10) and near transit within Higher Opportunity Areas (Policy 1.3.1), and expand permanent supportive housing options with services for homeless (Policy 5.1.3). The HCD Letter also flags the City's failure to implement Housing Element Program #15, which commits to increasing the utilization of public land for affordable housing in high resource and gentrifying areas, like the Site, and Program #6, which calls on the City to prioritize funding for affordable housing in "Higher Opportunity Areas."

II. Non-Compliant Housing Element

Each of the Policies and Programs identified above were considered by HCD when certifying the City's Housing Element as compliant with State Housing Element Law. Accordingly, the City's failure to comply with these Policies and Programs calls into question the adequacy and efficacy of the City's Housing Element and demonstrates State Housing Element Law violations. For example, State Housing Element Law requires cities to analyze and remove governmental constraints that hinder achievement of the RHNA, and to adopt a program of actions that protect and promote such housing.³ Since the Project's approval by City Council, the City has only added constraints on the advancement of the Project that would also prevent other similar affordable projects from being approved and built, particularly projects proposed on LADOT parking lots. Notably, the City Administrative Officer ("CAO") established a completely new post-entitlement procedure requiring review and approval of any project proposing use of a LADOT parking lot from the City's Board of Transportation Commission ("BOTC"). When the BOTC reviewed the Project, it rejected the Project's current location and recommended a completely different site (Lot 701) despite the City's actual elected legislative body already approving the Project at the Site. This additional layer of review by the BOTC, which has the established effect of undermining the City's use of LADOT parking lots for affordable housing, was not analyzed as a constraint in the Housing Element and is contrary to City's Housing Element commitments, on which HCD relied to certify the Housing Element.

Further, as this Committee is well aware, every jurisdiction's housing element must include an inventory of adequate sites with sufficient capacity to accommodate its RHNA by income category,⁴ and credit may be taken for the number of units built between the start of the RHNA projection period and

² Gov. Code § 65589.5.

³ Gov. Code § 65583(a)(5).

⁴ Gov. Code § 65583(a)(3).

the deadline for adoption of the housing element.⁵ The City's Housing Element identifies the Project in Appendix 4.2 "Pipeline Development Projects on Public Land," under "City-Owned and Leased Sites – Affordable & Supportive Housing," and thus clearly took credit for the Project's affordable units when identifying adequate sites to accommodate its RHNA. To avoid violation of State Housing Element Law, not only would the City need to provide evidence that the Project units may be built elsewhere, but it would also need demonstrate that other pipeline projects are not at risk due to the City's added constraints and failure to enforce and implement the Housing Element Policies and Programs identified above.

III. Violations of the HAA

The HCD Letter characterizes the City's actions as amounting to significant delay and effective denial. Because the Project is an approved, Housing Element identified, 100 percent affordable project, it is covered by the HAA, which requires the City to make and demonstrate support for specific findings before it may be denied.⁶ The City has denied the Project without making such findings in violation of the HAA.

IV. Consequences

The City has made laudable strides as a pro-housing leader, adopting a compliant Housing Element and then adopting CHIP, which include the Mixed Income and Affordable Housing Incentive Programs. Yet the City's actions in connection with this single, already approved 120-unit affordable housing Project could jeopardize all of that productive work by exposing the City to State penalties and sanctions.

a. Loss of Pro-Housing Designation

The City received a "Prohousing Designation" from HCD in April 2023 for its commitment to accelerating housing production, cutting red tape, and implementing policies that increase housing supply at all income levels. This designation grants the City priority access to state funding and housing-related grants. The City received almost \$170,000,000 under the Pro-Housing Incentive Program and Housing and Homelessness Assistance Program, funding that has been critical for the City's Inside Safe Program and numerous other City programs.

The Pro-Housing Designation also provides priority points for the Affordable Housing and Sustainable Communities Program the Infill Infrastructure Grant, the Transformative Climate Communities Program, the Solutions for Congested Corridors Program, the Local Partnership Program, the Transit and Intercity Rail Capital Program, and the Sustainable Transportation Planning Grant Program. In 2025 alone, three (3) projects in LA city received grants from these programs. HCD even awarded the Project \$42,455,697 from the State's Multifamily Housing Program on September 22, 2025, which HCD characterizes as a "competitive funding award [that] will provide a much-needed low-interest, long-term deferred-payment loan to enable the Project's construction."

HCD has now threatened to revoke this very meaningful designation as a result of the City's failure to comply with State Housing Element Law. This revocation would have potentially severe financial

⁵ Gov. Code § 65583.1(d).

⁶ Gov. Code § 65589.5(b).

consequences. **How is this one project in one corner of West Los Angeles possibly worth the entire City being unceremoniously kicked off the State's official list of pro housing cities?**

b. HAA Fines

The City's violation of the HAA in connection with the Project could also result in significant fines in the amount of \$50,000 per unit, or \$6,000,000 for the Project's currently proposed 120 units. Generally, a court is mandated to impose a fine of \$10,000 per unit when it finds violations of the HAA after providing the local agency an opportunity to cure the violation within 60 days; and if a court finds the local agency acted in bad faith, that fine is increased to \$50,000 per unit. However, Assembly Bill ("AB") 712, a new law that became effective January 1, 2026, makes the \$10,000 fine automatic if the applicant alleges a violation of any "housing reform law"⁷ and the local agency received written notice of the violation by either the Attorney General or HCD and the applicant 60 days prior to the commencement of the action.⁸ If a court has previously found that the local agency violated the same housing reform law on which an applicant prevailed in its lawsuit, within the same planning period, the court shall automatically impose a minimum fine of a \$50,000 per unit without the need to demonstrate bad faith.⁹ The City has lost multiple HAA lawsuits this Housing Element cycle (a number of them involved projects and cases represented by our law firm). Thus, the City is in the unenviable position to face the automatic new AB 712 enhanced \$50,000 per unit penalties should it continue to violate the HAA by effectively disapproving the Project. **That would result in a whopping \$6 million in fines for its actions over the Project, not to mention the exorbitant cost of litigation.**

The HCD Letter provides the City with notice of its State Housing Element Law violations in connection with the Project. Further, based on the City's response to the HCD Letter, HCD has threatened issuance of a Corrective Action Letter, which would provide further notice to the City of its State Housing Element Law violations. Therefore, the City is at risk of an automatic minimum fine under AB 712 of \$50,000 per unit given the City's current litigation involving State Housing Element Law violations. **The loss of 120 affordable homes would be painful enough – sticking Los Angeles taxpayers with a \$6 million bill for the right to keep a DOT parking lot in place would add insult to injury.**

c. Decertification of the Housing Element and Builder's Remedy

As this Committee is keenly aware, the City has dedicated immense time and effort into the preparation and adoption of the Housing Element, which has been certified by the HCD as compliant with Housing Element Law. However, Housing Element decertification now appears to be an actual risk. If HCD is unsatisfied with the City's response to the HCD Letter, it will issue a Corrective Action Letter in connection with the Project, which begins a 30-day clock for the City to cure the identified violations. Should the City fail to correct the violations within those 30 days, HCD may very well decertify the City's Housing Element. This would be a colossal policy failure. Decertification of the City's Housing Element provides housing developers the opportunity to pursue Builder's Remedy projects pursuant to AB 1893 and 1886. Builder's Remedy projects, which have been reluctantly approved across the State in

⁷ "Housing reform law" means any law or regulation, or provision of any law or regulation, that establishes or facilitates rights, safeguards, streamlining benefits, time limitations, or other protections for the benefit of applicants for housing development projects, or restricts, proscribes, prohibits, or otherwise imposes any procedural or substantive limitation on a public agency for the benefit of a housing development project. (Gov. Code § 65914.2(d).)

⁸ Gov. Code § 65914.2(b).

⁹ Gov. Code § 65914.2(b).

jurisdictions with non-compliant Housing Elements, benefit from development rights way above and beyond the City's General Plan and zoning limitations, including state-imposed density standard (i.e. a minimum of three times the density permitted by the general plan, zoning ordinance or state law, whichever is greater) in addition to expanded benefits under the State Density Bonus Law.¹⁰ While great for our firm and a number of our clients, total loss of zoning control is not in the City's best interest and the threat of decertification should therefore be taken extremely seriously.

V. Conclusion

In conclusion, given the significant risks associated with the City's current course of action in relation with the Project, we urge this Committee to work with the City Council as a whole to schedule consideration and approval of the reduced Project adopted by the Coastal Commission. The City should want 120 new affordable homes in one of the highest resource areas in the City. After all the City did approve this Project. But even if the City no longer wants the Project developed, the risks of killing the Project by overtly illegal means, resulting in the loss of the City's official Pro-Housing Designation, crippling fines and penalties and possible Housing Element decertification and unleashing of builder's remedy, far outweigh any benefit of placating some in the local Venice community who want to maintain the status quo at all costs.

Thank you for your consideration, and please let us know if we can provide you with any additional relevant information.

Sincerely,

Dave Rand

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¹⁰ Gov. Code § 65915.