



City Clerk Council and Public Services <clerk.cps@lacity.org>

YIMBY Law Correspondence

1 message

Vishnu Malhotra <vishnu@yesinmybackyard.org>

Fri, May 12, 2023 at 7:55 PM

To: "Clerk.CPS@lacity.org" <Clerk.CPS@lacity.org>

Cc: Sonja Trauss <sonja@yimbylaw.org>, Rafa Sonnenfeld <rafa@yimbyaction.org>, Keith Diggs <keith@yesinmybackyard.org>

To Whom It May Concern,

Please find the attached correspondence from YIMBY Law regarding the development project located at 13916 Polk St.

Best,

Vishnu Malhotra he/him

Legal Intern

352-340-7399



YIMBY
LAW



13916 Polk St, LA - BR Letter - 05_12_23.pdf

68K

YIMBY Law

877 Cedar Street #150
Santa Cruz, CA 95060
hello@yimbylaw.org



YIMBY LAW

May 12, 2023

Dear City of Los Angeles,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act. Should you fail to follow the law, YIMBY Law will not hesitate to pursue any and all available means to ensure the law is followed.

YIMBY Law is aware of a housing development project which qualifies for approval under the Builders' Remedy, which has been submitted to your municipality for review and approval. The Builder's Remedy, prohibits localities from denying housing development projects, or imposing conditions of approval on a project which render the project infeasible, when the project is consistent with the above-listed affordability requirements, unless the locality can make findings that the proposed housing development would cause a threat to public health and safety that cannot be mitigated.

You received an SB-330 preliminary application for a project proposed at 13916 Polk St on June 24th, 2022 for the development of 45 residential units for rent, with nine units rented to Low-Income families. Ten days before this SB-330 preliminary application was submitted, on June 14th, 2022, the City of Los Angeles adopted and sent their 6th Cycle Housing Element for review to the California Department of Housing and Community Development (HCD). On June 29th, 2022, just five days after the submission of this project's SB-330 preliminary application, HCD found the City of Los Angeles' 6th Cycle Adopted Housing Element to be "in full compliance with State Housing Element Law (Article 10.6 of the Gov. Code)."¹

It is thereby established that at the time at which this SB-330 preliminary application was filed, the City of Los Angeles was not in full compliance with State Housing Element Law, meaning that submitted projects would be eligible for "Builder's Remedy." Since the city was not in compliance, the city of Los Angeles was subject to Gov. Code, § 65589.5(d), which requires approval of any 20% low-income, or 100% moderate-income housing development project, regardless of its consistency with the general plan land use element, or a zoning ordinance. This provision of housing element law is the so-called "Builders' Remedy" of the Housing Accountability Act. The project located at 13916 Polk St. was and is an eligible project under these criteria.

Recent literature directly from HCD confirms this conclusion: that at the time the SB-330

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<https://planning.lacity.org/odocument/c30f832f-9f91-47ff-bcc0-69f33b197a11/LACityAdoptedINo62922.pdf>

preliminary application for the project located at 13916 Polk St. was submitted, the City of Los Angeles was not “in compliance” pursuant to HCD standards, meaning that the timeline requirements and legal protections afforded to SB-330 projects remain in effect, even though HCD found the city’s Housing Element to be in full compliance just 5 days later. HCD recently formally established that a noncompliant city is only in significant compliance with HCD from the exact date that HCD finds the city to be in significant compliance via a letter from the department confirming as such, not from the date on which the city formally adopted their housing element. We are citing HCD’s May 8th, 2023 letter to the City of Redondo Beach regarding a proposal to build 2500 housing units in the city with Builder’s Remedy.² HCD states:

In other words, a local jurisdiction does not have the authority to determine that its adopted element is in substantial compliance. A local jurisdiction is “in compliance” as of the date of HCD’s letter finding the adopted element in substantial compliance. A local jurisdiction cannot “backdate” compliance to the date of adoption of a housing element. For the City of Redondo Beach, the housing element was found by HCD to be in substantial compliance on September 1, 2022.

And for the City of Los Angeles, the housing element was found by HCD to be in substantial compliance on June 29th, 2022, five days after the SB-330 preliminary application was submitted for 13916 Polk St. Since HCD has established that the city cannot backtrack compliance to the date of housing element adoption, on June 14th, 2022, we can establish that on the date that the SB-330 preliminary application for this project was submitted, the City of Los Angeles’ Housing Element was not in substantial compliance, meaning that this project remains eligible for all protections afforded by SB-330 and is conclusively a Builder’s Remedy eligible project.

Conclusion

The Project proposal is consistent with the provisions of the Builders’ Remedy; therefore, you must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. Should the City fail to comply with the law, YIMBY Law will not hesitate to take legal action to ensure that the law is enforced.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,



Sonja Trauss
Executive Director
YIMBY Law

² https://drive.google.com/file/d/1_lPmyfZBYX5C3fdNPsFSIOdob_3S_hG7/view

