

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



September 14, 2023

City Council Planning and Land Use Management Committee  
City of Los Angeles  
200 North Spring Street, 395 Floor  
Los Angeles, CA 90012

Dear City Councilmembers Marqueece Harris-Dawson, John S. Lee, Katy Yaroslavsky, Imelda Padilla, and Heather Hutt:

**RE: 5501-5511 N. Ethel Avenue – Letter of Technical Assistance**

The California Department of Housing and Community Development (HCD) understands that on September 19, 2023, the City of Los Angeles (City) City Council's Planning and Land Use Management Committee (PLUM) will consider an appeal of the City's determination that the project located at 5501-5511 N. Ethel Avenue (Project) is ineligible for ministerial processing under Executive Directive No. 1 (ED1).

The purpose of this letter is to assist the PLUM with its decision making by providing technical assistance related to the Preliminary Application as described in the Housing Accountability Act (Gov. Code, § 65589.5) and Permit Streamlining Act (Gov. Code, § 65941.1). HCD urges the City to expeditiously process all ED1 projects in accordance with the rules and regulations that were in effect at the time the preliminary applications were complete. HCD recognizes the challenge of interpreting housing and land use laws and appreciates the opportunity to provide technical assistance.

**Background***ED1*

Mayor Karen Bass issued ED1 on December 16, 2022, creating a streamlined ministerial approval process for 100 percent affordable and shelter projects. The original ED1 regulations specified that the density permitted for a project site could be based on either the zoning or the general plan land use designation and that projects could utilize State Density Bonus Law (SDBL). The City revised ED1 on June 12, 2023, and explicitly prohibited ED1 ministerial processing on sites located in single-family or more restrictive zones.<sup>1</sup>

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<sup>1</sup> Executive Directive No. 1, Page 1, Revised June 12, 2023.

### *Project History*

The proposed Project is a 100 percent affordable residential development that would result in a total of 200 affordable dwelling units, inclusive of one manager's unit. The Project site is zoned R1-1, One-Family Zone (single-family zone), with a General Plan land use designation of Low Residential. The Project includes a State Density Bonus Law (SDBL) request for additional density with incentives, concessions, and waivers of development standards. The City deemed the Project's preliminary application complete on March 23, 2023. The City's signed preliminary application review form indicated that the Project was eligible for ED1 and had until September 19, 2023 to file the City Planning application.<sup>2</sup> The applicant submitted the full development application on June 6, 2023. Then, on July 6, 2023, the City issued a Notice of Ineligibility (NOI) that indicated, "[p]er the revised Executive Directive 1 (ED1) issued by Mayor Karen Bass on June 12, 2023, projects located in single-family or more restrictive zones cannot use the ED1 Ministerial Approval Process."<sup>3</sup> The NOI explicitly stated that the Project is not eligible for ED1 processing because it is in the R1-1 zone, but noted that there are other entitlement options available for the Project which do not require a legislative act (e.g. General Plan Amendment or Zone Change).

### **Preliminary Application Vesting Rights and the City's Executive Directive-1**

The central question between the City and the Applicant is as follows:  
Is an executive directive one of the rules, regulations, requirements, and policies that vest upon submission of a complete Preliminary Application?

The answer is "yes." Submission of a preliminary application that meets the requirements of Government Code section 65941.1 vests the "ordinances, policies and standards" in effect when the application is submitted. (Gov. Code § 65589.5, subd. (o)(1).) The Housing Accountability Act (HAA) makes it clear that,

"[f]or purposes of this subdivision, 'ordinances, policies, and standards' includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions."<sup>4</sup>

The City's ED1 is not excluded from the expansive HAA definition of "ordinances, policies, and standards." The Mayor issued the executive directive under the provisions of Los Angeles City Charter section 231(i) and section 8.29 of the Los Angeles Administrative Code, which, during a period of local emergency, deem the Mayor the

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<sup>2</sup> City of Los Angeles Housing Crisis Act Vesting Preliminary Application, Page 1, Signed March 31, 2023.

<sup>3</sup> City of Los Angeles Notice of Ineligibility dated July 6, 2023.

<sup>4</sup> Gov. Code, § 65589.5, subd. (o)(4). Emphasis added.