

September 30th, 2024

TO: Todd Gloria, City of San Diego Mayor  
Heidi Vonblum, City Planning Director  
Joe LaCava, San Diego City Councilmember D1  
Jennifer Campbell, San Diego City Councilmember D2  
Stephen Whitburn, San Diego City Councilmember D3  
Henry L. Foster III, San Diego City Councilmember D4  
Marni Von-Wilpert, San Diego City Councilmember D5  
Kent Lee, San Diego City Councilmember D6  
Raul Campillo, San Diego City Councilmember D7  
Vivian Moreno, San Diego City Councilmember D8  
Sean Elo-Rivera, San Diego City Councilmember D9

CC: Kohta Zaiser, Council Affairs Advisor, Mayors Office  
Liz Saidkhanian, Development Project Manager, Planning Department

**RE: SUPPORT FOR SCRUTINY OF LANGUAGE IN THE SAN DIEGO MUNICIPAL CODE TO ENSURE COMPLIANCE WITH FEDERAL & STATE FAIR HOUSING LAW**

We, the members of the Community Planners Committee, urge in the strongest terms that language in the San Diego Municipal Code be immediately scrutinized, as it seems on its face to have the intent and effect of maintaining unlawful housing segregation. This scrutiny should be conducted with the maximum possible speed that is consistent with solving a major local crisis.

The language in question can be found in Footnote 7 for Table 131-04D in the San Diego Municipal Code. This footnote came to the attention of the Chollas Valley (Encanto) Planning Group during a mismanaged appeal process. The planning group was appealing a project that was in clear violation of the zoning in their community plan. This footnote carves out Encanto (now known as Chollas Valley) and Eastern Area which specifically targets these historically underserved communities of color.

A 1936 map of San Diego shows much of southeastern San Diego was “redlined.” These discriminatory housing practices led the federal government to pass the Fair Housing Act (Title VIII) in 1968. The purpose of this legislation was to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Americans. Within Title VIII, the mandate to Affirmatively Further Fair Housing (AFFH) has been, is, and should be recognized.

In 2022, Stephen Russell, executive director of the San Diego Housing Federation, told KPBS that those “redlined” maps are nearly identical to socio-economic maps of San Diego today, with a few exceptions. In the same article, Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated America*, said, “We have a national myth that the racial segregation that still exists in every metropolitan area in the country is created simply by private prejudice, private lending practices, people’s desires to live with others of the same race. This is false.” In fact, this private prejudice has historically been and is currently operationalized by law

throughout the nation. There is more than reasonable cause to believe that a prime example of this exists in the City of San Diego Code:

*San Diego Municipal Code, Chapter 13, Table 131-04D, Development Regulations for RS Zones, Footnote (7) states: "In the Encanto and Southeastern San Diego Community Planning areas, the lot size shall be a minimum of 5,000 square feet, and all development regulations of the RS-1-7 zone shall apply to subdivisions."*

This excerpt of code, herein referred to as Footnote 7, is limited in scope to two specific community planning areas in San Diego that are historically comprised of redlined neighborhoods. That to this day, continue to primarily consist of nonwhite residents and have been classified by the City as "Communities of Concern." Both planning group areas, encompassing 16 individual neighborhoods, are designated by the state of California as low opportunity, with some parts experiencing high poverty, and almost all meet the state definition for segregation. Footnote 7 targets the RS-1-2 zone as outlined by their Community Plans, and does not apply citywide. No similar footnotes exist for other Community Planning Areas or zones. Footnote 7 effectively nullifies zoning protections without regard for existing Community Plans or the California Environmental Quality Act as it pertains to findings effectuating elements of those community plans. There is more than reasonable cause to believe that Footnote 7 is an act of intentional racial targeting in violation of the Equal Protection clause of the Constitutions of the United States of America and the State of California, prohibitions against racial discrimination in United States Title VIII, and AFFH mandates within Title VIII and the state of California's AB 686 law.

We hold that Footnote 7 perpetuates racial biases in historically segregated communities, Encanto and Southeastern, by limiting residents' access to the same zoning opportunities that predominantly white San Diego neighborhoods enjoy—namely, different density and housing size options which bolster economic opportunity. We urge, in the strongest terms, the immediate removal of Footnote 7 from Table 131-04D. All projects seeking to use Footnote 7 should be put on pause until a determination can be made as to whether this violates Title VIII. We demand, as the law requires, fair housing language in all future municipal code updates.

Sincerely,

Andrea Schlageter  
Chair, Community Planners Committee