

September 24, 2024

Community Planners Committee
Planning Department
City of San Diego, CA

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 is immediately scrutinized in the San Diego Municipal Code that seems on its face to have the intent and effect of maintaining unlawful housing segregation. This scrutiny should be conducted with the maximum possible pace that is consistent with solving a major local crisis.

In 1936, a map of San Diego shows much of southeastern San Diego in red, compared to La Jolla in blue. That color coding is what led to the term, “redlining.” The federal government described the red area as “Racial concentration of colored fraternity. Homes show only slight degree of pride of ownership and are on the average negligently maintained.” La Jolla was described as, “Residents embrace nearly all types of professions and are all white. No threat of foreign infiltration. Homes are well maintained.”

In 1968 the federal government passed the Fair Housing Act (Title VIII) 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, a 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 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 sort of law of the City of San Diego is the following:

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.”

Footnote (7) for Table 131-04D in San Diego municipal code is limited in scope to two specific community planning areas in San Diego that are historically comprised of redlined neighborhoods from 1936 that today continue to primarily consist of nonwhite residents. 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. The footnote targets the RS-1-2 zone and does not

apply citywide. No similar footnotes exist for other community planning areas or zones. This footnote 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 clauses of the Constitutions for 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 AB686 ;aw.

We hold that this footnote perpetuates racial bias in historically segregated communities, Encanto and Southeastern, limiting residents' access to the same zoning opportunities that predominantly white San Diegans enjoy in other parts of the city. We urge, in the strongest terms, swift emergency scrutiny by city of San Diego officials with a duty to do so and upon the same or similar finding, the immediate removal of Footnote (7) for Table 131-04D. "Footnote 7" should be deemed immediately inoperative pending the outcome of the scrutiny advised in this letter. We demand, as the law requires, fair housing language in all future municipal code updates.