

C.A.R. Housing Group Sues Beverly Hills for Inadequate Housing Planning

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Housing group announces lawsuit against Beverly Hills over inadequate planning for housing

LOS ANGELES (Jan. 19) – Californians for Homeownership, a nonprofit organization sponsored by the [**CALIFORNIA ASSOCIATION OF REALTORS® \(C.A.R.\)**](#) that aims to address California’s housing crisis through impact litigation, today announced that it has filed a lawsuit against the city of Beverly Hills to enforce state housing element law. The lawsuit challenges the city’s decision to list sites including retail centers and office buildings as areas for future housing development, without any evidence that housing will be developed on those sites by 2029.

The organization is seeking a determination that the city is subject to penalties for failing to comply with the law. These penalties include the requirement that the city exempt mixed- and moderate-income projects from certain development standards — a provision often called the “Builder’s Remedy.”

“Californians for Homeownership has taken up the mantle as a leading enforcer of the state’s housing element laws, which require cities and counties to ensure that their zoning requirements will allow enough housing to be built over the next decade,” said C.A.R. President Jennifer Branchini. “Beverly Hills is a major job center in Southern California and needs to do its fair share by allowing new housing in areas of the city where development is actually likely to take place.”

Under state law, Beverly Hills is required to identify sites that can accommodate approximately 3,100 new units of housing by 2029, including nearly 1,700 affordable units for lower-income families. The city must demonstrate that its existing zoning rules are flexible enough to facilitate the development of these units, or rezone parts of the city to allow more flexibility.

“The city’s allocation reflects its status as a high-opportunity area with access to jobs and other critical resources,” said Matthew Gelfand, the in-house litigator for the nonprofit. “And by 2025, the city will be served by Metro rail, offering transit to downtown Los Angeles in around 20 minutes and to Century City in just a few minutes. This is exactly where new housing is needed the most.”

In 2020, the city adopted a housing development overlay that allows housing along its major commercial corridors, including Wilshire Boulevard and Robertson Boulevard, on sites that are mostly developed with existing commercial office, medical and retail buildings. The city’s housing element, which was adopted in October 2021, assumes that a large proportion of these buildings will be redeveloped as housing.

“To list a site like an office building as a place for housing development, a city must demonstrate that the existing use of the site is likely to end by 2029,” said Gelfand. “In reality, most of the sites listed by Beverly Hills are in active use as commercial and medical offices or retail businesses and are not going to be redeveloped as housing.”

The state Department of Housing and Community Development (HCD) rejected the city’s housing element in January 2022, citing the city’s unreasonable assumptions about the redevelopment of its commercial corridors, as well as other problems with the city’s plan. Among these, HCD expressed concerns about the city’s fair housing analysis. Cities are required to “affirmatively further fair housing” in the housing element process, including ensuring that lower-income housing is not inappropriately concentrated in one part of a city.

Throughout most of 2022, the city made little progress toward revising its housing element to comply with state law. Eventually, the city circulated a new draft with a narrower list of housing sites. But the list continues to include questionable sites, including modern and recently renovated office buildings, a Jewish community center and a theater. The city also included major medical facilities that it had said it would excluded from the list, including a Cedars-Sinai pediatric clinic and a UCLA Health primary care clinic.

It is possible that some of these sites are serious candidates for redevelopment. Typically, cities contact property owners and tenants to understand how their existing leases and future plans will impact potential redevelopment, but there is no indication that Beverly Hills ever had those conversations.

HCD rejected the city's new draft. After assessing the city's progress, Californians for Homeownership concluded that litigation would be necessary to move the city toward compliance soon enough to create rules that can meaningfully guide development during the eight-year planning period that began in October 2021. Based on the organization's assessment, the city is likely to need to rezone additional sites to create more opportunities for housing development.

Housing element compliance is a major focus for the nonprofit, which generally offers to forgo litigation against cities that are willing to acknowledge the state law penalties for non-compliance. Prior to the latest lawsuit, it sued nine cities that had not made sufficient progress toward adopting compliant housing elements and that refused to acknowledge the penalties associated with their delays. It has settled four of these lawsuits. The settlements commit cities to specific timelines for adoption of their housing elements and to make changes as needed to ensure that the housing elements they adopt will be eligible for certification by HCD. The cities also committed to comply with the Builder's Remedy while out of compliance and agreed to reimburse Californians for Homeownership for its costs and legal fees.

In the coming months, the organization's focus will shift to the Bay Area, the Santa Barbara region, and other parts of the state, as those areas complete their housing elements. In prior housing element cycles, without litigation, some cities have allowed the process of developing their housing elements to drag on for years after state law deadlines.

The lawsuit against Beverly Hills seeks an order requiring the city to adopt a compliant housing element on an expedited basis, as well as a judicial declaration that the city is subject to the Builder's Remedy and other state law penalties for being out of compliance. The court also has the discretion to control aspects of a city's land use approvals — for example, halting the issuance of all non-residential building permits or judicially approving housing development projects that have been held up by a city.

The case is *Californians for Homeownership v. City of Beverly Hills*, Los Angeles County Superior Court Case No. 23STCP00143. Copies of the filing are available at caforhomes.org/housingelements.

Californians for Homeownership is a 501(c)(3) nonprofit organization sponsored by the CALIFORNIA ASSOCIATION OF REALTORS® devoted to using legal tools to address California's housing crisis. For too long, California's cities have treated compliance with state and federal housing law as optional. The organization seeks to change that attitude by proactively enforcing the law, on behalf of the important public interest in having additional housing available to families at all income levels. Californians for Homeownership was established by the CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.), and it receives financial support from C.A.R. and private donors. To make a tax-deductible charitable contribution today, visit caforhomes.org.

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