2/19/2026
Public Hearing A
Correspondence 7

CALIFORNIANS FOR HOMEOWNERSHIP

CAL HDF

Feb 19, 2026

City of Jurupa Valley
8930 Limonite Avenue
Jurupa Valley, CA 92509

Re: Proposed Housing Development Project "Camino Terrace Apartments"

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Dear Jurupa Valley City Council,

The California Housing Defense Fund ("CalHDF") and Californians for Homeownership submit this letter to remind the City of its obligation to abide by all relevant state laws when evaluating the proposed 80-unit, 100% affordable, supportive housing development project at the northeast corner of Camino Real and Limonite Avenue (APNs: 185-460-001, 185-470-001, 185-470-002). These laws include the Housing Accountability Act ("HAA"), the Density Bonus Law ("DBL"), binding caselaw from the California Court of Appeal, and Government Code section 65650 et seq.

Of note, the California Department of Housing and Community Development warned the City not to disapprove the project in an April 24, 2025 Notice of Potential Violation: "HCD hereby notifies the City that failing to grant the appeal would constitute a violation of state housing law." (California Department of Housing and Community Development, Letter to Arleen Pruitt et al., April 24, 2025, available here.) However, the City has persisted in its denial of the project, with the Planning Commission denying the applicant's appeal during the April 28, 2025 hearing. On June 24, 2025, HCD issued the City another Notice of Potential Violation (California Department of Housing and Community Development, Letter to Brian Berkson et al., June 24, 2025, available here), warning the City that making improper findings in order to deny the project would constitute a violation of state housing law.

It appears from the staff report that the applicant has addressed the City's concerns: the applicant has consolidated the project onto the south side of Canyon Terrace Drive, the

applicant will install a backup generator for the community room, the applicant will develop sidewalks along Camino Real, and the applicant has offered to contribute $1.2 million to the City to satisfy the City's desire for undergrounding of utilities. It is a testament to the applicant that they agreed to these various conditions, given that they are entirely optional under state law.

The proposed development would provide housing to the state's most vulnerable population. After more than 20 years of the Global War on Terror, hundreds of thousands of veterans across the United States are suffering from post-traumatic stress and associated challenges. In the words of the City, from page 5-284 of its Housing Element, in Riverside County "[o]nly a third of homeless persons with mental health conditions and 30.9% of veterans are sheltered." While it is terrible to see anyone live on the streets, it is particularly galling that we should have homeless veterans in the United States, the richest country in the world. Further, a denial of the project at this stage would only subject the City to expensive litigation under the Housing Accountability Act. In CalHDF's most recent lawsuit to overturn a local denial of a housing development, La Cañada Flintridge agreed to pay $1,262,500 to cover CalHDF's attorney's fees, in addition to millions more for the City's own legal expenses and the developer's fees. The City should be aware that, should the Council deny the project, we are prepared to bring legal action against the City to compel it to approve the project, as discussed *infra*.

The time has come for the City to approve the project. By the City's own calculations (see page 2 of the February 19, 2026 staff report), this is the fifth and final hearing for the project. The HAA limits local governments' power to disapprove permit applications for certain housing development projects such as this one. (See Gov. Code § 65589.5.) The Housing Crisis Act of 2019, working in tandem, limits the number of public hearings for zoning-compliant housing development projects to a maximum of five. (Gov. Code, § 65905.5, subd. (a).) Failure to take appropriate action after five hearings constitutes a "disapproval." (Gov. Code § 65589.5, subd. (h)(6)(F).) If the city, county, or city and county continues such a hearing to another date, "the continued hearing shall count as one of the five hearings allowed." (Gov. Code, § 65905.5, subd. (a).) The City must approve the project at the February 19, 2026 Council meeting.

Background

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subds. (d), (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would render the project infeasible (*id.* at subd. (d)) or reduce the project's density (*id.* at subd. (j)) unless, again, such written findings are made. As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies

with applicable local zoning code and applicable aspects of the City's general plan. The HAA's protections therefore apply, and the City may not reject the project except based on a specific, documented health and safety impact, as outlined above – which it cannot do since the preponderance of the evidence in the record does not support such findings. (*Ibid.*) Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA. (Gov. Code, § 65589.5, subd. (j)(3).) Furthermore, if the City rejects the project or impairs its feasibility, it must conduct "a thorough analysis of the economic, social, and environmental effects of the action." (*Id.* at subd. (b).)

We also write to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to parking lot shading,[1] private open space, parking setback,[2] pedestrian access, retaining wall height, unit sizes, laundry hook-ups, and parking. If the City were to disapprove any waivers, Government Code section 65915, subdivision (e)(1) requires findings that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. If the City were to disapprove any concessions, Government Code section 65915, subdivision (d)(1) requires findings that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City "may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes 'amenities' beyond the bare minimum of building components." (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

On February 13, 2025, the Community Development Director issued a Notice of Decision denying Master Application No. 24164 (MA24164) and Site Development Permit No. 24074 (SDP24074). On April 28, 2025, the Planning Commission denied the project by adopting Resolution No. PC-2025-06, upholding the denial of Master Application No. 24164 (MA24164) and Site Development Permit No. 24074 (SDP24074). Based on the record of the above decisions and for the City Council hearing on the developer's appeal, upholding the denial of this project would be a clear violation of the HAA and DBL. The City has attempted to justify its actions by citing provisions of federal law, state law, and the local code that, in its view,

[1] In addition, it should be noted that the project can satisfy this standard by eliminating three parking spaces.
[2] The project has been redesigned so that it does not require this waiver.

require disapproval of the project. These justifications fall short. Further, the evidence produced to show a supposed unavoidable health and safety impact due to the project falls far short of justifying a denial. The City should desist, follow state law, and approve the project.

Undergrounding of Utilities

The City is attempting to force the project to underground the utilities along the project frontage. This requirement has no basis in law.

The City cites city code section 7.50.010, stating that it applies to both subdivision projects and nonsubdivision projects. This is simply untrue. And it does not matter how many times or in what way the City asked the applicant to underground the utilities, it is still not a development standard applicable to the project.

The staff report for the December 18, 2025 Council meeting fails to produce a provision from the municipal code applying subdivision standards to residential developments that do not include a subdivision. This is because the code includes no such provision.

Relevant code sections are as follows:

> Sec. 7.05.010(B) All land divisions in the city as hereinafter defined are subject to all of the applicable provisions of the Subdivision Map Act (Gov. Code Section 66410 et seq.) and this title.

The project does not include a land division, nor does any aspect of the project fall within the definition of land division. The City may not apply its subdivision standards to a project that does not involve a subdivision. The fact that the City succeeded in pressuring other projects into undergrounding their utilities does not change the fact that the City may not apply this requirement to the project.

Moreover, the ad hoc application of subdivision standards to projects that do not involve a subdivision is the application of a new constraint to residential development, which was not analyzed by the City's Housing Element.

The City must stop attempting to apply unrelated code chapters to this project.

As noted *supra*, the applicant has also offered to contribute $1.2 million to the City in order to resolve this issue.

Compliance with Government Code Section 65651

In its February 13, 2025 denial, the City found that the project did not comply with Government Code section 65651, subdivision (a)(5), which requires onsite supportive services, as there is a street separating the offices for the supportive staff from the residential buildings. In the City's view, this is not "onsite."

In turn, in section (5)(b) of the Planning Commission's April 28, 2025 Resolution PC-2025-06 denying the project also stated that, in the City's view, the services are not "onsite" and that therefore the project does not qualify for ministerial approval pursuant to Government Code section 65651, subdivision (a)(5).

The City's ad-hoc decision to redefine "onsite" in such a way as to deny the project is not objective. The HAA requires disapprovals to be based on objective criteria (Gov Code, § 65589.5, subd. (j)(1)), which "means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official" (Gov Code, § 65589.5, subd. (h)(9)).

Given that the City code has no written definition of "onsite," and certainly no definition that excludes services that are across a street internal to the development site, denying the project based on this novel definition is not objective. Furthermore, Courts do not defer to the City's interpretation of its land use regulations in HAA lawsuits but instead review such regulations independently. (*California Renters Legal Advocacy & Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 844.)

In recent legislation strengthening the requirements of section 64641, the legislature made findings that:

> Given the urgent need to provide supportive housing to Californians experiencing chronic homelessness, streamlining and expediting the process of approving supportive housing applications will offer housing opportunities in communities with few or no opportunities to exit chronic homelessness. Further, it will promote progress in addressing the growing crisis of homelessness the Legislature intended through recent initiatives. (2018 Cal Stats. ch. 753).

The purpose behind this statute is to facilitate the swift approval of the type of housing most desperately needed in California. It would be perverse, and run counter to this clear legislative purpose, to interpret the law to allow the City to deny California's formerly homeless veterans housing they so desperately need.

We note that the applicant has submitted an alternative site plan, which would eliminate all uses north of Canyon Terrace Drive, thus removing this as a potential objection.

Site Development Permit for Childcare Facility

Resolution PC-2025-06, Section (6)(a)(3) cited City Code Section 9.80.0202(A)(25) to justify disapproving the project, as this section of code requires a Site Development Permit for the childcare facility proposed as part of the project. Resolution PC-2025-06 used this finding in Section (6), paragraphs (a)(3) and (b) of the resolution to justify a denial of the project pursuant to the HAA. (See Gov. Code, § 65589.5, subds. (d)(5), (j).)

However, this section of City Code is preempted by Government Code section 65650 et seq. The entire point of this law is to encourage the development of supportive housing, which includes supportive services. The provision of onsite childcare is a service that directly supports the needs of the residents of the development. While Government Code section 65651, subdivision (a)(5)(B) requires that at least 3% of the total floor area be for supportive services that are exclusively for tenant use, this section of law does not state that floor area above and beyond the 3% floor must be exclusively for tenant use. State law further mandates ministerial approval for supportive housing developments. This requirement necessarily includes the supportive services vital to the project. Any discretionary local approval process would be a clear violation of the state law mandate for a ministerial process.

The City may wish to read Government Code section 65656, the legislative findings for the state supportive housing law at issue (emphasis added):

> The Legislature finds and declares that, by adoption of Proposition 2 at the November 6, 2018, statewide general election, the **voters expressly approved of the development of permanent supportive housing** pursuant to the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code). The Legislature further finds and declares that the **provision of adequate supportive housing** to help alleviate the severe shortage of housing opportunities for people experiencing homelessness in this state and of necessary services to the target population described in Section 50675.14 of the Health and Safety Code, and that ensuring the development of permanent supportive housing in accordance with programs such as the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code) by **removing zoning barriers that would otherwise inhibit that development, are matters of statewide concern and are not municipal affairs** as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this article applies to all cities, including charter cities.

The City is obviously attempting to thwart the intent of this law by requiring discretionary approval of an integral aspect of the supportive housing proposal.

We note that the applicant has submitted an alternative site plan, which would eliminate all uses north of Canyon Terrace Drive, including the childcare facility, thus eliminating this potential objection.

Health and Safety Findings

In section 6(a) of Planning Commission Resolution PC-2025-06, which denied the project, the City made health and safety findings pursuant to Government Code section 65589.5, subdivision (d). "It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in … subdivision (d) … arise infrequently." (Gov. Code, § 65589.5, subd. (a)(3).) In light of this rule, other parts of the statute, and relevant caselaw, the City's findings were defective as a matter of law.

Sidewalk Improvements

In Planning Commission Resolution PC-2025-06, section (6)(a)(1),the City made health and safety findings denying the project pursuant to Government Code section 65589.5, subdivision (d)(2): "The Project would have a specific, adverse impact upon the public health and safety as Wakeland has not proposed to construct any sidewalk improvements as required by the objective standards set forth in the Mobility Element of the General Plan …" This finding is defective for multiple reasons.

Government Code section 65589.5, subdivision (d)(2) reads in its entirety:

> The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:
>
> > (A) Inconsistency with the zoning ordinance or general plan land use designation.
> > (B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

As can be seen, "specific, adverse impact" is defined as a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards,

policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

First, the City's findings did not find an unavoidable impact. The HAA requires that, in order to justify a denial, a City must identify an impact of the project, and that "no feasible method to satisfactorily mitigate or avoid" such impact exists. (Gov. Code, § 65589.5, subd. (d)(2).) Section (a)(1) of Resolution PC-2025-06 stated, "The only way to mitigate this danger is for Wakeland to construct ADA-compliant sidewalk improvements that would allow pedestrians and persons using mobility devices to travel from the bus stops to the Project site (and from the Project site to the bus stops), without needing to travel in the roadway on Camino Real." In its resolution denying the project, the City stated directly that the impact can be avoided/mitigated via the construction of ADA-compliant sidewalk improvements. Therefore, these impacts are not unavoidable, and therefore the City may not deny the project based on such impacts.

Second, impacts must be caused by the development. They cannot consist of existing conditions. The City has not chosen to develop sidewalks on Camino Real, for whatever reason, and this capital planning decision has created a preexisting condition. The project will not exacerbate the existing conditions in any way.

Third, the impacts must be based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subds. (d)(2), (j)(1)(A)) The City bases its findings on policy statements within the Mobility Element of the General Plan. However, the cited portions of the Mobility Element are not objective:

> ME 2.11 Street Improvements with New Development. Require street improvements as a condition of new developments, including undergrounding of utility lines, installation of fiber optic cable and other utilities, sidewalk, curb, gutter and street pave-out, bicycle and equestrian facilities, street lighting (where appropriate), street trees and landscaping.
>
> ME 3.21 ADA Compliance. Require safe pedestrian walkways that comply with the Americans with Disabilities Act (ADA) requirements within commercial, office, industrial, mixed use, residential, and recreational developments.
>
> ME 8.10 Right-of-Way Improvements. Developers shall be responsible for right-of-way dedication and improvements that provide access to and enhance new developments. Improvements include street construction or widening, new paving, frontage improvements like curb, gutter, sidewalks, street trees, trails and parkways, installation of traffic signals, pavement markings and annunciators, and other

facilities needed for the safe and efficient movement of pedestrians, bicyclists, equestrians, and motor vehicles.

The HAA defines "objective" as involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (*Id.* at subd. (h)(9).)

The above Mobility Element provisions are broad policy statements, which is appropriate to a general plan document. However, they do not establish standards in sufficient detail such that compliance with them is "uniformly verifiable by reference to an external and uniform benchmark." (See *ibid*.)

For instance, ME 2.11 does not state the extent of street improvements required as a condition of new development. Would the developer be responsible for the frontage external to the property? Improvements internal to a subdivision? ME 2.11 is not specific. As a further example, this policy requires "equestrian facilities." Would a horse trail suffice? Or a hitching post? Or would a race track be required? The policy therefore does not meet the HAA's definition of "objective." We remind the City that Courts do not defer to the City's interpretation of its own regulations in HAA lawsuits but instead review such regulations independently. (*California Renters*, *supra*, 68 Cal.App.5th at 844.)

ME 3.21 requires ADA-compliant walkways "within" developments. As a threshold matter, the project is providing such walkways - the City objects to the non-provision of walkways outside the development area, on City-owned property. Notwithstanding this inapplicability, the standard is not objective. ME 3.21 requires "walkways." Taken literally, this means that every development must provide at least two walkways. What is the upper limit on the number of walkways? What if there is but one walkway, but it connects the pedestrian entrance to every conceivable destination? A development proponent is incapable of knowing, ex ante, the number and form of the walkways that the City might require.

ME 8.10 requires right-of-way dedication and street improvements. Again, this is not objective. It is totally unclear how a development proponent would know, ex ante, how to comply with this policy. For instance, would an applicant be required to widen streets in all directions, miles from the project, simply because it would "provide access to" the development?

The City is relying on these General Plan policies because its zoning does not actually require sidewalk improvements. Instead of amending its zoning text to require that the next development applicant provide sidewalks, the City is attempting to circumvent the clear requirements of the HAA that a housing development project can only be required to

comply with local standards that applied when the application was determined to be complete. (*Id*. at subd. (d)(2).)

In short, the City's evidence and proposed findings fall far short of identifying and justifying a denial based on a health and safety impact under the HAA. The identified impact is not a result of the project itself, the City lacks any objective standard upon which to measure the supposed impact, and the City itself identifies clear mitigation available that would avoid the impact entirely. Based on the record, it appears that the sidewalk-related impacts identified by the City are a mere pretext invented to justify the City's real goal: deny the project.

State and Federal Law

In Planning Commission Resolution PC-2025-06, section (6)(a)(2), the City made findings denying the project pursuant to Government Code section 65589.5, subdivision (d)(3), which allows cities to deny projects if their approval would violate state or federal law. However, there is no violation of state or federal law in this case. The state and federal law cited in the resolution mandate accessibility within the site, not on public property.

Regarding the Americans with Disabilities Act, a matter normally reserved for the building permit phase, Resolution PC-2025-06, section (6)(a)(2), provides the following (emphasis added):

> The ADA mandates that public facilities, including sidewalks, must be accessible to individuals with disabilities. The Project does not comply with a number of ADA regulations and standards. According to ADA Standards for Accessible Design Standards, Section 206.2.1, at least one accessible route must be provided **within the site to accessible facility entrances** from these site arrival points, where provided: (1) accessible parking and accessible passenger loading zones, (2) public streets and sidewalks, and (3) each public transportation stop.

Regarding state building code, a matter normally reserved for the building permit phase of the project, not the zoning entitlement phase, Resolution PC-2025-06, section (6)(a)(2), provided the following (emphasis added):

> The Project also does not comply with the requirements set forth in California Building Code, Title 24 of the California Code of Regulations Section 1114B.1.2, which states that "when a building, or portion of a building, is required to be accessible or adaptable, an accessible route of travel complying with Sections 1102B, 1114B, 1124B, 1133B.3, 1133B.5, 1133B.7, and 1133B.8.6 shall be provided to all portions of the building, to accessible building entrances, and between the building and the public way. . . At least one accessible route **within the boundary of the site** shall be provided from

> public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks, to the accessible building entrance they serve.

As can be seen in the above excerpts from Resolution PC-2025-06, the City has denied a project for not providing sidewalks on City property, external to the project site, by citing state and federal law that regulates accessibility within a site.

Mischaracterization of Density Bonus Law Concession

Planning Commission Resolution PC-2025-06 mischaracterized the applicant's requested concession regarding sidewalks.

While Planning Commission Resolution PC-2025-06 stated that the applicant is requesting a concession to avoid constructing a sidewalk on Camino Real, the applicant actually requested a concession to be relieved from City Code section 9.240.545(B)(9), which requires connection between the public sidewalk and internal pedestrian paths. This concession was necessary because there are no public sidewalks to connect to.

The project does not need to request a concession for off-site sidewalks along Camino Real because the City has no objective standard requiring that such sidewalks be built. As discussed *supra*, the City's Mobility Element of its General Plan is a broad policy document, and it does not contain objective standards requiring infill developments to construct sidewalks. Therefore, there was no need for the applicant to use a concession to not construct a sidewalk on Camino Real, as there was no objective standard requiring the applicant to construct such a sidewalk.

We note that the applicant has proposed developing sidewalks on Camino Real and on Canyon Terrace Drive, thus eliminating this potential objection.

Applicability of City Standards

In addition to the various legal defects in the City's findings, the City may not apply any local standards to the project, as City staff missed a key deadline under the HAA.

The Legislature has provided specific timelines in the HAA to ensure that applications are processed promptly and applicants are quickly made aware of any inconsistencies with local standards. Government Code section 65589.5, subdivision (j)(2)(A) provides the following:

> If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the

> reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:
>
> > (i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.
> >
> > (ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

As can be seen in cited language, because the project has only 80 units, the HAA requires that the City provide the applicant documentation identifying any inconsistencies with City standards within 30 days of the date that the application is determined to be complete.

For purposes of the HAA, "determined to be complete" means that the applicant has submitted a complete application pursuant to Government Code section 65943. (Gov. Code, § 65589, subd. (h)(10.) This means that the date that the application is determined to be complete is the date that the complete application was submitted, not the date that the local agency issues a completeness determination.

The applicant submitted a complete application on September 16, 2025. According to the staff report, the City issued a completeness determination on October 16, 2024. The City then issued a zoning compatibility letter on November 15, 2024, which alleged various inconsistencies with the City's standards. The November 15, 2024 letter was issued a full 60 days after the complete application was submitted.

Because the proposed development is 80 units, Government Code section 65589.5, subdivision (j)(20)(A)(i) requires the City to notify the applicant of any inconsistencies with local objective standards within 30 days of the submission of the complete application. Because the City waited a full 60 days to issue this consistency determination, it has triggered the provisions of Government Code section 65589.5, subdivision (j)(2)(B):

> If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

The project is therefore deemed in full compliance with all local standards by operation of law.

Fair Housing Implications

Given that the City had planned for 32 units of above-moderate income on the project site (despite its being owned by the housing authority), and its location between two country clubs, it is entirely possible the City's disapproval of the project was due to animus against low-income residents and formerly homeless veterans.

Disapproving the project is transparently discriminatory towards lower-income households. For purposes of state fair housing law (see Gov. Code, § 8899.50, *inter alia*), low-income residents are a protected class. (Gov. Code, § 65008, subds. (a)(3), (b)(1)(C), and (b)(2)(B).) Veterans are also a protected class. (Gov. Code, § 12955, subds. (a), (d).) The City is obligated by state law (Gov. Code, § 8899.50) not to discriminate against such residents based on protected characteristics.

Under Government Code section 8899.50, all public agencies must affirmatively further fair housing through their housing and community development programs. Government Code section 8899.50, subdivision (a)(1), defines "affirmatively furthering fair housing" as taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development. Public agencies are required to take meaningful actions to AFFH and take no action that is materially inconsistent with their obligation to AFFH. (*Id*. at subd. (b).)

Additionally, the City has a duty to affirmatively further fair housing ("AFFH") in preparing its Housing Element. (*See* Gov. Code § 8899.50 and § 65583 (c)(5).) The Housing Element itself, moreover, must assess fair housing within the City. (Gov. Code § 65583, subd. (c)(10)(A).)

The Planning Commission's public hearing on the project on April 28, 2025, revealed that animus against potential residents of the development was one of the factors underlying the City's denial of the project. While members of the Commission loudly proclaimed their support of affordable housing generally, they had specific objections about it being located on this particular site. More importantly, members of the public that testified against the project specifically cited opposition based on an impression that there would be more crime and a need for more law enforcement on the project, based on the stereotype that low-income residents commit more crimes. Relevant excerpts from public testimony from three separate community members during the hearing:

- [1:28:30] "You're going to add more people? Are we going to have more law enforcement? Who's going to pay for it?"

- [1:30:50] - [Speaker states that she was speaking on behalf of her neighbors, who left Corona a couple of years ago, and they left Corona after] "they built a community just like the one they're presenting here like this one" and "they said their vehicles were broken into numerous times after they built the community, they said everything went downhill and that's why they moved to our peaceful neighborhood. And now it's coming over here too."

- [1:47:50] "The law enforcement, who's going to take care of the law enforcement? We're going to have more citizens in there, we're going to have a lot more people, more callers. The low-income, I know you guys want to call it affordable housing, but in reality, let's face it, it's low-income. So who's going to take care of all that? I already pay $4,000 a year in property tax. I'm already paying for that. I can't afford no more law enforcement, my property tax going up. It's just not right."

These statements were never refuted by any member of the Planning Commission. In fact, the Chair of the Commission, in her final remark before calling the vote, stated "we have to listen to the residents who are going to be driving these streets and walking these streets, we have to keep our citizens safe."

The City should be aware that Courts have found violations of the Fair Housing Act (See 42 U.S.C. § 3604, et seq.) under similar circumstances. For instance, in *Mhany Mgmt, Inc. v. County of Nassau* (2d Cir. 2016) 819 F.3d 581, the court found that the local agency had violated the Fair Housing Act after it refused a zoning change to facilitate an affordable housing project after a public hearing in which members of the public "expressed concern that [the zoning change] would be used to introduce affordable housing and associated undesirable elements into their community" (*id*. at 608). There, as here, the majority of project opponents did not make any overtly discriminatory statements and focused instead on issues like traffic, parking, and school overcrowding. (*MHANY Management, Inc. v. Village of Garden City* (E.D.N.Y. 2013) 985 F.Supp.2d 390, 417, aff'd sub nom. *Mhany Mgmt., Inc. v. County of Nassau* (2d Cir. 2016) 819 F.3d 581.) But this does not excuse a city's actions so long as the discriminatory animus of constituents was one "significant" factor motivating the decision. (*Id*. at 413-14; accord *United States v. Yonkers Bd. of Educ.* (2d Cir. 1987) 837 F.2d 1181, 1226 [discriminatory animus of constituents need not be the "dominant" factor motivating city's decision, only a "significant" factor]; *Ave. 6E Investments v. City of Yuma* (9th Cir. 2016) 818 F.3d 493, 505 [surveying caselaw and concluding that "the relevant cases clearly hold that a city's denial of a zoning change following discriminatory statements by members of the public supports a claim of discriminatory intent"].)

The City's Actions Violate Its Housing Element

The City's Housing Element commits the City to facilitating, encouraging, and, if feasible, funding the development of affordable and supportive housing, particularly for special needs populations, such as the homeless, and for veterans. The City's denial of this project violates the following goals and policies from the City's adopted Housing Element (emphasis added throughout):

Goal HE 1 - **Encourage and, where possible, assist in the development of quality housing** to meet the City's share of the region's housing needs **for all income levels and for special needs populations.** [From pages 5-20: Special needs groups include seniors, persons with disabilities, families with children, single-parent households, large households**, homeless persons** and persons at-risk of homelessness, farm workers, and persons with HIV/AIDS.]

- Policy HE 1.2 Affordable Housing. **Encourage affordable residential development** on sites zoned to allow multi-family residential uses and identified in the vacant land inventory, the City will adopt development incentives and standards to encourage lot consolidation, and to allow residential development at a density of up to 25 dwelling units per acre in the Highest Density Residential (HHDR) designation, where appropriate.

- Policy HE 1.4 Housing Diversity. **Encourage the development of diverse housing types** and housing densities to best meet the needs of the community.

- Policy HE 1.6 Availability of Suitable Sites. **Ensure the availability of suitable sites for the development of affordable housing** to meet the needs of all household income levels, **including special needs populations**.

- Policy HE 1.8 Housing for Homeless Persons and Those at Risk of Homelessness. In cooperation with other cities and/or the County of Riverside, **assist in the development of** emergency, transitional, **permanent supportive housing** and low barrier navigation centers **for homeless persons** and families and those at risk of homelessness.

- Policy HE 1.9 Housing for All Special Needs Groups. Ensure and **encourage the availability of housing to all Special needs populations** and income levels.

Goal HE 3 – Promote Equal Housing Opportunities for All Persons

- Policy HE 3.3 Housing Opportunities for Seniors, Disabled Persons, Single Parent Households, Farmworkers, **Veterans, Homeless,** and all other Special Needs Groups. Encourage and, as budget allows, help support programs and activities that **promote affordable housing opportunities** for seniors, disabled persons, single parent household, farm workers, **homeless, veterans**, and all other special needs groups.

Goal HE 6 – **Affirmatively further fair housing**

- Policy HE 6.1 Take Meaningful Action. Take meaningful action to affirmatively further fair housing by implementing measures to improve housing mobility, **provide new opportunities in higher opportunity areas**, encourage place-based strategies for community revitalization and discourage displacement.

In fact, the Housing Element Site Inventory even proposes the development of 32 units of housing on the project site.

Clearly, the denial of permanent supportive housing for homeless veterans violates all the aforementioned goals and programs in the City's Housing Element. Given this, it is reasonable to ask whether the City is actually committed to implementing its Housing Element, or whether the Housing Element should still be considered in substantial compliance with state law.

The City should be aware that persisting in its denial of this project would expose the City's Housing Element to a potential determination of substantial non-compliance by the California Department of Housing and Community Development ("HCD"). Pursuant to Gov. Code § 65585, subdivision (i), HCD "shall review any action or failure to act by [the City] that it determines is inconsistent with an adopted housing element…" Moreover, if HCD "finds that the action or failure to act by [the City] does not substantially comply with this article," HCD may revoke its findings that the City's housing element is in compliance with Housing Element Law until it determines that the City has come into compliance with state law.

Additionally, an interested party may bring an action under Code of Civil Procedure Section 1085 to determine whether a housing element conforms to the statutory requirements and to compel a city to adopt a compliant housing element. (Gov. Code, §§ 65587, 65751.) CalHDF and Californians for Homeownership regularly bring such lawsuits.

If HCD or a court determines that the City's Housing Element no longer substantially complies with state law, then the City may lose the ability to disapprove certain housing developments. The Housing Accountability Act (Gov. Code, § 65589.5; the "HAA") requires approval of "builder's remedy" projects that are submitted during periods of local housing element noncompliance. (Gov. Code, § 65589.5, subd. (d)(6).) Under the HAA, a city may not disapprove a builder's remedy project on the grounds it does not comply with the city's zoning and general plan if the developer submitted either a statutorily defined "preliminary application" or a "complete development application" while the city's housing element was not in substantial compliance with state law. (See Gov. Code, § 65589.5, subds. (d)(6), (h)(5), (o)(1).) This statutory provision temporarily suspends the power of non-compliant municipalities to enforce their zoning rules against qualifying affordable housing projects.

See, e.g., *California Housing Defense Fund v. City of La Cañada Flintridge*, Case Number: 23STCP02614, for a recent court decision affirming the plain language of the statute in this regard. Of note, in this case, CalHDF argued, and the court subsequently ruled, that the City of La Cañada Flintridge's housing element was not in substantial compliance with state law, thus exposing that city to the builder's remedy.

The City Is Exposing Itself to Legal Liability Under the HAA and DBL

The Council should be aware that should the City persist in its denial of the project, and face a lawsuit, it may bear a severe financial burden pursuant to the HAA and DBL. If the City is found to have violated the HAA, it will be liable for attorney's fees and cost of suit (See Gov. Code, § 65589.5, subd. (k)(1)(A)(ii)) in addition to other penalties. (See *id*. at subd. (k)(1)(B).) If a court finds that the City wrongfully denied requested waivers and concessions pursuant to the DBL, it will be liable for attorney's fees and costs of suit pursuant to Government Code section 65915, subdivisions (d)(3) and (e)(1). As an example, the City of Berkeley was recently forced to pay $4 million after wrongfully denying a housing development project.

In addition to the provisions cited above, the HAA allows housing organizations like CalHDF and Californians for Homeownership to bring an enforcement suit. (Gov. Code, § 65589.5, subd. (k)(2).) If an enforcement lawsuit brought by a housing organization is successful, the locality must pay the organization's attorney's fees and costs. (*Ibid*.)

Of note, the HAA provides for a 5x multiple of fines if the local agency has acted in bad faith through its denial of project. Government Code section Gov. Code, § 65589.5, subdivision (*l*):

> If the court finds that the local agency (1) acted in bad faith when it violated this section and (2) failed to carry out the court's order or judgment within the time period prescribed by the court, the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a court has previously found that the local agency violated this section within the same planning period, the court shall multiply the fines by an additional factor for each previous violation. For purposes of this section, "bad faith" includes, but is not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit.

In cases such as this, where HCD has warned the City against disapproving the project, such penalties are *mandatory*. (Gov. Code, § 65914.2, subd. (b)(2).)

In sum, the City has now twice denied a housing development for homeless veterans, eligible for ministerial processing as well as the protections of the HAA and DBL. As outlined above, the City's rationale for this denial is pretextual. The City's real goal seems to be to prevent any supportive housing from moving forward on this site. The City has persisted in

this denial despite being clearly warned against it by HCD. Should the City Council deny the applicant's appeal and persist in its illegal denial of the project, we are prepared to commence legal action against the City to compel it to obey state law and approve the project.

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As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New supportive housing such as this is a public benefit: this will provide affordable and supportive housing for veterans; it will mitigate the state's homelessness crisis; it will bring new customers to local businesses; and it will reduce displacement of existing residents by reducing competition for existing housing. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. We urge the City to approve it, consistent with its obligations under state law.

Sincerely,

Matthew Gelfand
Californians for Homeownership

Dylan Casey
CalHDF