

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

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March 28, 2024

Robert Delgadillo, Planning Director
City of Compton
Via: rdelgadillo@comptoncity.org
205 S. Willowbrook Avenue
Compton, CA 90220

Dear Robert Delgadillo:

RE: 1601 W. El Segundo Blvd, Compton – Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of Compton (City) regarding the proposed development at 1601 W. El Segundo Blvd (Project). This assistance is based upon an inquiry submitted through the California Department of Housing and Community Development's (HCD) Housing Accountability Unit (HAU) online portal by the Project applicant on December 6, 2023. The request for technical assistance pertains to the ability of the City to require discretionary approvals for project applications submitted pursuant to Government Code section 65589.5, subdivision (d)(5), also known colloquially as the "Builder's Remedy" under the Housing Accountability Act (HAA). HCD met with the applicant on December 19, 2023, and with City staff on February 5, 2024, as part of its review.

From these meetings and the submitted materials, HCD understands that the Project proposes to construct 45 units on the site, which has a General Plan Land Use Designation of Industrial and is zoned Limited Manufacturing. Nine of the units (20 percent of the overall unit count) will be reserved for low-income households. HCD also understands that the City accepted the Preliminary Application¹ in its letter dated July 18, 2023. In the letter, the City states that a Conditional Use Permit (CUP), General Plan Amendment (GPA), and Zone Change (Zone Change), will be required as part of the application submittal.

Question: Does the HAA prevent a city from requiring that a project application include a request to amend the general plan/zoning code in order to avoid a legal non-conformity if/when the project is approved?

¹ Gov. Code, § 65941.1, subd. (a).

No provision in the HAA prevents a local government from requesting a general plan/zoning code amendment in order to avoid a legal non-conformity. The HAA provides only that a local government must make one of five findings to deny a housing development project for very low-, low-, or moderate-income households.² Here, because the City did not have an adopted housing element in substantial compliance with state law when the applicant submitted its Preliminary Application, the City cannot make the findings necessary to deny the Project under subdivision (d), paragraph (5).³ However, this situation does not preclude the City from making one of the other four findings when it ultimately considers the Project at a future public hearing.

Further, the Builder's Remedy does not expressly prevent the City from requiring discretionary permits and/or legislative actions (e.g., GPAs, Zoning Changes, CUPs, specific plan amendments, etc.) that would be required for similar projects where the Builder's Remedy does not apply.⁴ Note, however, that a violation of the HAA will result if the City's insistence on a GPA or Zoning Change renders the project infeasible.⁵ For example, if insisting on the GPA or Zoning Change delays project approval or increases the cost of the approval process, a violation of the HAA would result.

In summation, HCD does not find, at this point, that the City is in violation of Government Code section 65589.5, subdivision (d), by requiring a GPA, Zone Change, and CUP as a part of the Project entitlement package. However, any action by the City that would render the project infeasible, as described above, will likely constitute a violation of the HAA.

If you have any questions regarding the content of this letter or would like additional technical assistance, please contact Bentley Regehr at bentley.regehr@hcd.ca.gov.

Sincerely,



Shannan West
Housing Accountability Unit Chief

² Gov. Code, § 65589.5, subd. (d).

³ Government Code section 65589.5, subdivision (d), paragraph (5), also known as "Builder's Remedy," provides that if a jurisdiction has not adopted a current housing element certified by HCD, developers may propose eligible housing development projects that do not comply with either the zoning or the general plan.

⁴ As explained by City staff, the GPA and Zoning Change are only intended to remedy the inconsistencies between the Project and applicable regulatory documents that will result when the Project is approved.

⁵ Gov. Code, § 65589.5, subd. (d).