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San Mateo Protects Affordable Housing Program City Requires Rental Housing Developers Comply with Below-Market-Rate Policy

San Mateo, CA (March 6, 2018)... The City of San Mateo has taken urgent steps to preserve its long-standing commitment to affordable housing, and its voter-approved inclusionary zoning policies.

Like many cities across California, San Mateo is navigating changes to state housing laws that went into effect this year, including Assembly Bill 1505. A legal analysis by the City Attorney cautioned there could be a potential conflict between AB 1505 and San Mateo's voter-approved laws requiring developers contribute below-market-rate, BMR, rental units on site.

The state law requires local governments to provide developers alternatives to building on-site BMR units, such as in-lieu fees or constructing homes at alternate locations. San Mateo's rules explicitly require the affordable units to be built on site, and amending these current regulations in Measure P requires voter approval.

In an abundance of caution, the City Council on March 5, 2018 unanimously approved a temporary measure to ensure the City's inclusionary zoning rules are preserved while a long-term solution is sought. The Council adopted an emergency moratorium on rental housing construction; however, this does not apply to developers that agree to abide by the terms of the City's affordable housing requirements set forth in Measure P. The ordinance also does not apply to the development of single-family homes or multi-family ownership housing.

The City recognizes the urgency of the regional housing crisis, and is committed to upholding its inclusionary zoning policies that have led to the creation of many homes for low-income families.

"This moratorium is all about making sure we can provide housing to people of all income levels," said City Attorney Shawn Mason, who stressed the ordinance is limited to rental housing developers that refuse to comply with San Mateo's established inclusionary zoning policies.

Background

In 1991, San Mateo voters approved rules requiring multi-family housing developers of projects with more than 10 units to contribute a certain percentage of below-market-rate homes on-site. Initially known as Measure H, the provisions also included height and density limits. In 2004, voters extended the provisions with minor amendments through Measure P which now requires a minimum of between 10 percent and 15 percent of on-site affordable units. The Council does not have the ability to make changes to the voter-approved measure to align it with state law. Instead, the Council directed staff to develop a City-sponsored approach for future consideration to address the potential conflicts.

AB 1505 was intended to re-empower local governments with the ability to enact inclusionary affordable housing policies. The bill was considered a legal remedy to a 2009 court ruling, known as the Palmer Decision, which questioned inclusionary policies applied to new rental housing developments. AB 1505 is designed to enable local governments to adopt these critical affordable housing tools, such as what San Mateo is now striving to preserve.

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