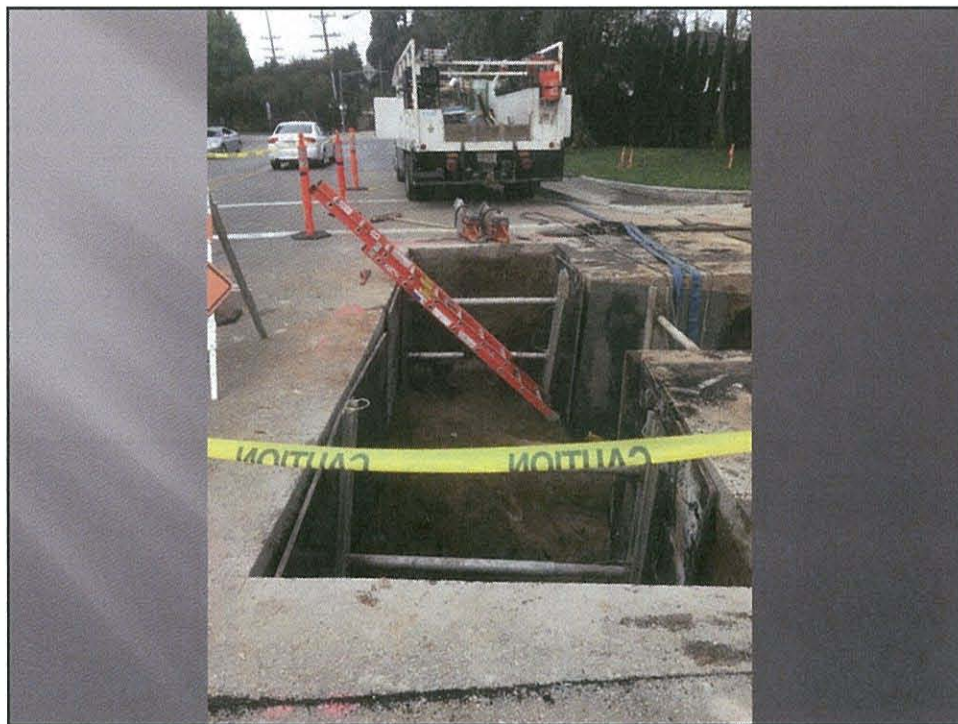




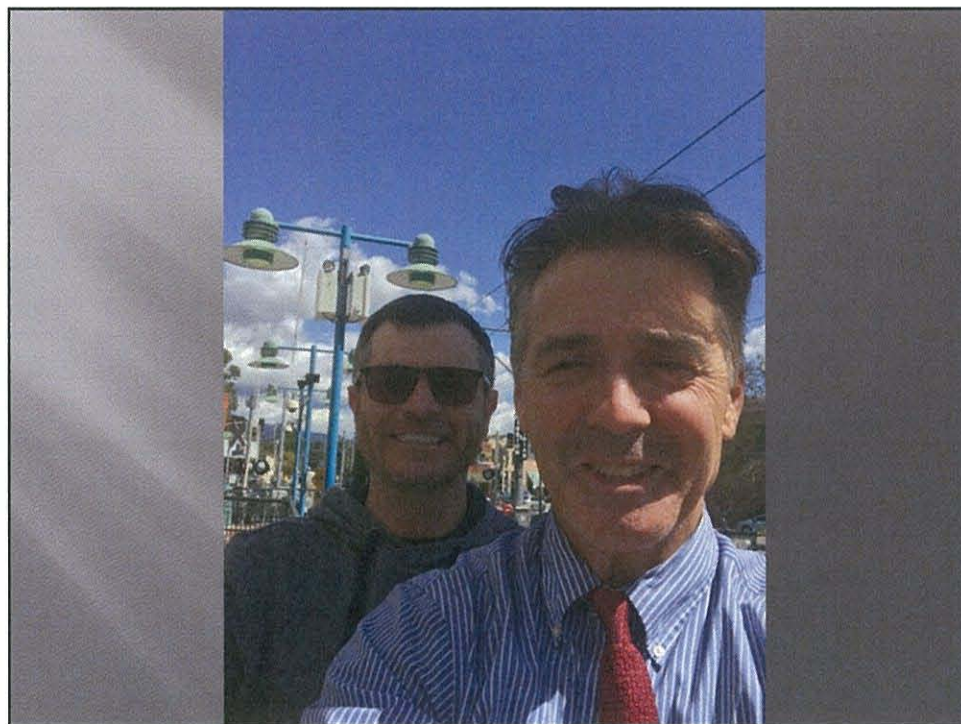
# Additional Documents Distributed for the Regular City Council Meeting March 21, 2018

Item No.	Agenda Item Description	Distributor	Document
5	Councilmember Communications	Michael A. Cacciotti, Councilmember	PowerPoint, Various Photos
5	Councilmembers Communications	Robert S. Joe, Councilmember	PowerPoint, St. Patrick's Day Senior Luncheon
5	Councilmember Communications	Marina Khubesrian, M.D., Mayor Pro Tem	PowerPoint, Various Photos
5	Councilmembers Communications	Richard D. Schneider, M.D. Mayor	PowerPoint, Various Photos
PC	Public Comment	Chris Sutton, Attorney for Caltrans Tenants	Handout, City of South Pasadena v. Caltrans et al (Case No. BC331628) – Declaratory Judgment for Plaintiff
15	Background for the State of California's Affordable Housing Crisis and Consideration of the Annual Housing Report	David Watkins, Planning & Building Director	PowerPoint, Staff Presentation
16	Summary Analysis of Recently Approved State Affordable Housing Bills	Teresa L. Highsmith, City Attorney	PowerPoint, California's 2017 Affordable Housing Bills
17	Inclusionary Housing and Commercial Linkage Fee Programs	Kathe Head, Managing Principal, Keyser Marston Associates, Inc.	PowerPoint, Inclusionary Housing and Commercial Linkage Fee Programs – City of South Pasadena





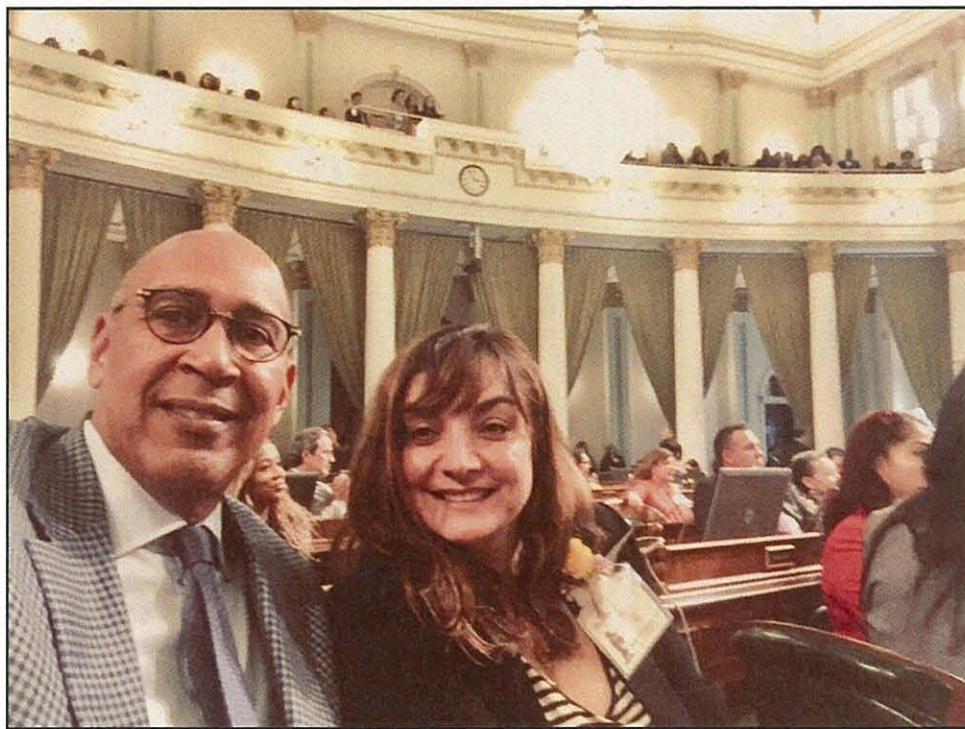






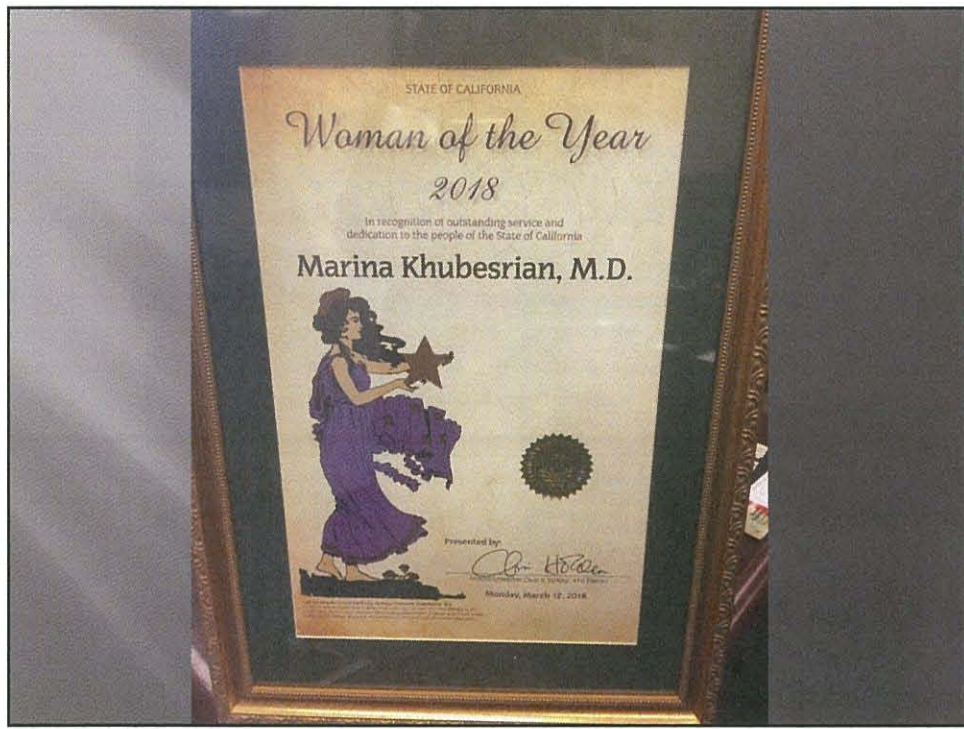
Additional Material  
AGENDA ITEM # 5  
3/21/18 City Council Mtg.  
Joe



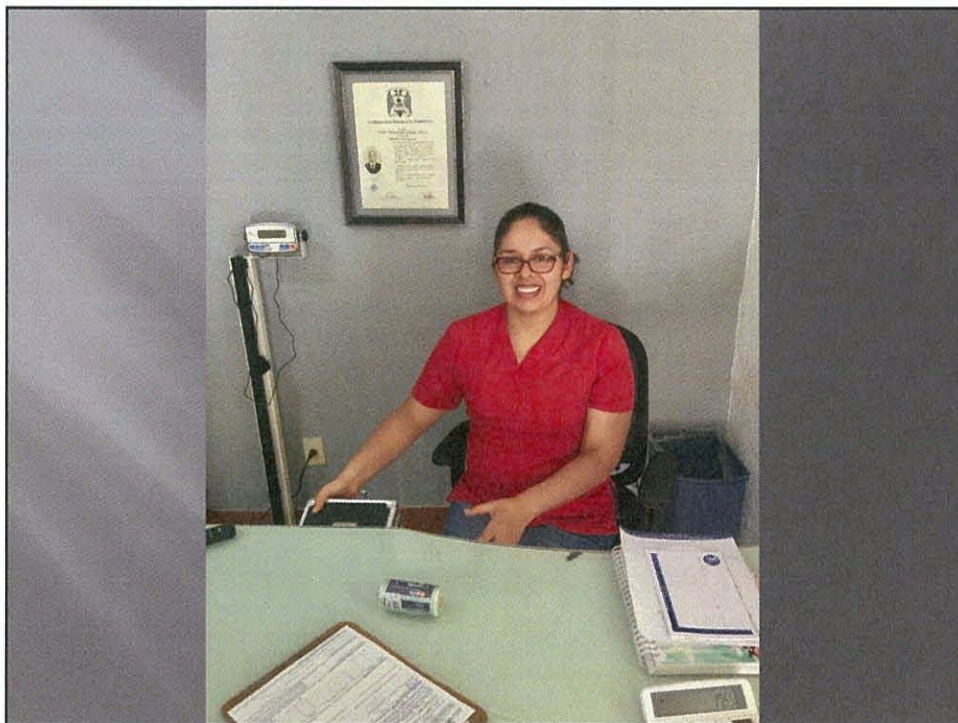
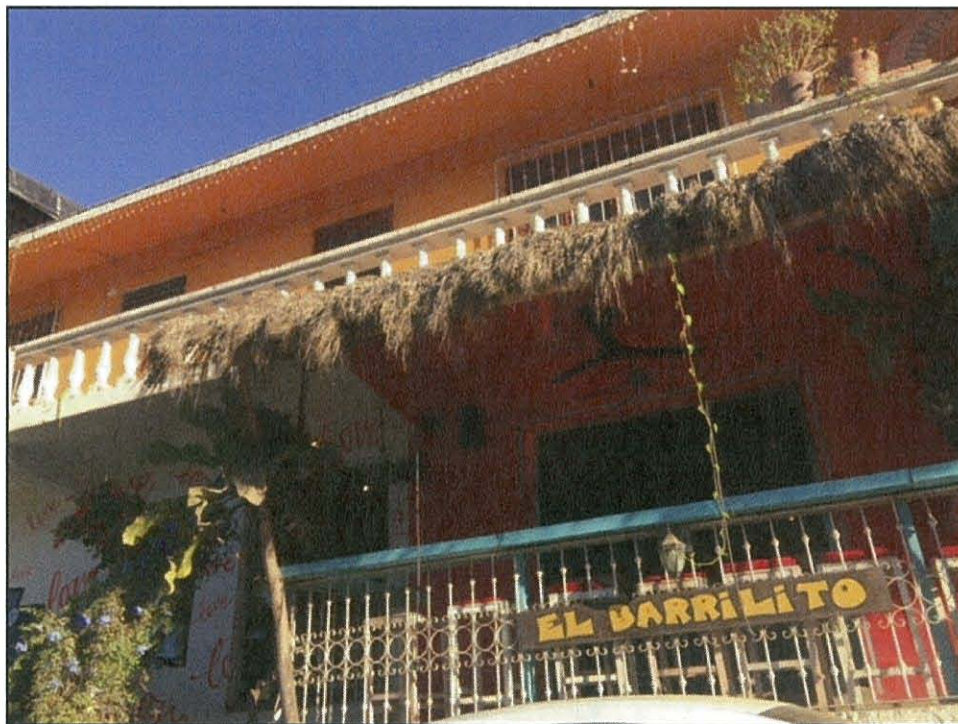


Additional Material  
AGENDA ITEM # 5  
2/21/18 City Council Mtg.  
Khubernian













Additional Material  
AGENDA ITEM # 5  
3/21/18 City Council  
Schneider



**City of South Pasadena**  
Emergency Preparedness



The City of South Pasadena provides free sand and sandbags (limit 10 bags per address) to South Pasadena residents for use when storms occur. Use them to prevent water from entering low spots around your home or business.

Sand and sandbags are located In Arroyo Park (South)  
Near the Gazebos (Picnic Area)  
614 Stoney Drive

Sand bags and shovel available at location  
Extra bags are available in front of the Fire Station at 817 Mound (No sand on site)



\*The City of South Pasadena does not fill, load, or place sandbags for individuals.\*

## **CITY COUNCIL MEETING SCHEDULE**

### **APRIL 2018**

Please note there will not be a  
City Council Meeting on April 4, 2018.

The next Regular Meeting will be held on  
**Wednesday, April 18, 2018, at 7:30 p.m.,**  
**in the Council Chamber.**



CSutton  
26

MAR 21 2018

City Clerk's Division

**FILED**  
LOS ANGELES SUPERIOR COURT

**FILED**  
LOS ANGELES SUPERIOR COURT

FEB 20 2007

John A. Clarke, Executive Officer/Clerk

APR 05 2007

DEPUTY

JOHN A. CLARKE, CLERK

BY F. MOREAU, DEPUTY

*(Signature)*  
F.D.

SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

RECEIVED  
... 20 2007

CITY OF SOUTH PASADENA,

Plaintiff,

v.

THE CALIFORNIA DEPARTMENT OF  
TRANSPORTATION; WILL KEMPTON,  
as DIRECTOR OF THE CALIFORNIA  
DEPARTMENT OF  
TRANSPORTATION; CALIFORNIA  
TRANSPORTATION COMMISSION;  
BEACON HOUSING, INC., a non-profit  
corporation, and ESPERANZA  
CHARITIES, INC., a non-profit  
corporation, and DOES 1 to 10,

Defendants.

CASE NO.: BC331628

A. Caballero

*(Signature)*  
[PROPOSED]  
DECLARATORY JUDGMENT  
FOR PLAINTIFF

1-26

The motion of plaintiff City of South Pasadena ("City") for summary adjudication on the first and third causes of action of the verified Complaint on file herein for declaratory relief against defendants California Department of Transportation and its Director Will Kempton in his official capacity ("Caltrans"), Beacon Housing, Inc. ("Beacon") and Esperanza Charities, Inc. ("Esperanza"), duly came on for hearing in Department 3 of the above-entitled court on February 5, 2007 before Honorable James R. Dunn, Judge presiding.

1 Richard R. Terzian, Esq. appeared for City; Erick Solares, Esq. appeared for Caltrans; Scott  
2 Carlson, Esq. and Lane Thomas, Esq. appeared for defendant Beacon; and Charles Granville-  
3 Mathews, Esq. appeared for defendant Esperanza.  
4

5 Having reviewed the moving and opposing papers of the respective parties and oral  
6 arguments of their counsel, and having sustained the objections of City to the declaration of  
7 Linda Wilford filed by Caltrans in opposition to the motion, and having determined from the  
8 verified complaint and the admissions of Caltrans that there are no triable issues of material  
9 fact and that the issues before the Court can be determined as a matter of law and that City has  
10 met its burden to establish that there is no defense to said first and third causes of action and  
11 that City is entitled to judgment as a matter of law, the Court hereby finds:  
12

13 1. Subchapter 16.10 of Chapter 16 of the Caltrans Right-of-Way Manual,  
14 consisting of Sections 16.10.01.00 through 16.10.14.00, inclusive ("Roberti Bill Regulation"),  
15 is a regulation implementing, interpreting and making specific a statute within the meaning of  
16 Government Code Section 11342.600;  
17

18 2. The statute that the Roberti Bill Regulation purports to interpret, implement and  
19 specify is found at Government Code Sections 54235 through 54238.7 inclusive, commonly  
20 known as the Roberti Bill, and more particularly Section 54237 which governs disposal of the  
21 parcels of real property at issue here;  
22

23 3. The Roberti Bill Regulation was not noticed for adoption nor were public  
24 hearings held nor was it published as required by the Administrative Procedure Act ("APA"),  
25 specifically Government Code Sections 11346 through 11348 inclusive;  
26

27 4. The Roberti Bill Regulation does not appear in the Code of California  
28 Regulations;



1           5.     The Roberti Bill Regulation is not an internal management rule within the  
2 meaning of Government Code Section 11340.9(d) since it applies to a significant segment of  
3 the general public nor is it the only legally tenable interpretation of the Roberti Bill within the  
4 meaning of Government Code Section 11340.9(f);

6           6.     The Roberti Bill Regulation has provisions for sale of parcels of real property  
7 owned by Caltrans within the proposed right-of-way of the 710 Freeway within the City. Said  
8 provisions are substantially inconsistent with the Roberti Bill;

10          7.     Said parcels of real property at issue here, described below by their street  
11 addresses, were offered for sale by public bidding and selection of the winning bidders was  
12 made by a committee created by Caltrans pursuant to criteria set forth in the Roberti Bill  
13 Regulation;

15          8.     The sales of said real properties took place in accordance with the procedures  
16 set forth in the Roberti Bill Regulation;

18          9.     The City is a housing-related public entity within the meaning of the Roberti  
19 Bill;

21          10.    The City was a bona fide qualified bidder for said real properties and was  
22 treated as such by Caltrans;

24          11.    The City has significant statutory duties and powers related to provision of  
25 affordable housing for low and moderate income persons which it has implemented in the  
26 Housing Element of its General Plan and the City is, or may be, impacted by the Roberti Bill  
27 Regulation;

28          12.    The City is an interested person within the meaning of Government Code  
Section 11350(a) and is entitled to pursue an action to challenge the Roberti Bill Regulation;

1           13.    After this action was filed and the Complaint served on Esperanza, Caltrans  
2 and Esperanza consummated sale of the specific parcel of real property described below;

3           14.    Esperanza was not a bona fide purchaser of said parcel within the meaning of  
4 Government Code Section 54238.5 in that Esperanza was aware of the claims of City with  
5 respect to all said parcels of real property prior to approval of sale of said parcel by the  
6 California Transportation Commission.  
7

8  
9  
10           Based on the foregoing, it is

11  
12           ORDERED, ADJUDGED AND DECLARED that:

13           A.    The Roberti Bill Regulation is an invalid regulation and cannot be utilized,  
14 issued, enforced or otherwise used in connection with any action of Caltrans in carrying out  
15 the mandate of the Roberti Bill for disposal of surplus properties;

16           B.    The Roberti Bill Regulation is without legal force or effect for any  
17 purpose;  
18

19           C.    Awards on the bids, and contracts for sale, of the following parcels of real  
20 property located within City from Caltrans to Beacon and Esperanza are invalid, null and  
21 void:  
22

- 23                   1.    217 Fremont Street;  
24                   2.    225 Fremont Avenue;  
25                   3.    302 Fairview Avenue;  
26                   4.    1037-1039 Grevelia Street;  
27                   5.    705-711 Fairview Avenue;  
28

- 1           6.     1041-1043 Magnolia;
- 2           7.     626 Prospect Avenue;
- 3           8.     726 Meridian Avenue;
- 4           9.     1002 Hope Street;
- 5           10.    1008 Hope Street;
- 6           11.    1010-1010½ Hope Street.

8           D.     The subsequent purported sale of the parcel of real property at 1010-1010½  
9 Hope Street to Esperanza by Caltrans is hereby declared null and void and the parties are  
10 ordered and directed to rescind said transaction and take all steps necessary to restore legal  
11 title to said parcel in Caltrans;

12           E.     Legal title to all parcels of real property described above shall remain in  
13 Caltrans until adoption of an appropriate regulation under the APA for their disposal  
14 pursuant to the Roberti Bill or further order of this Court.  
15

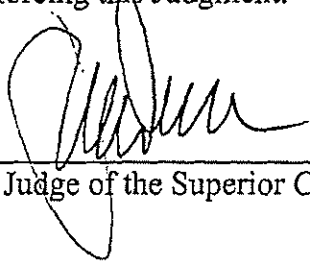
16           The Court further finds and it is,  
17

18           FURTHER ORDERED, ADJUDGED AND DECLARED, that the summary  
19 adjudication herein of the first and third causes of action of the Complaint renders the second  
20 and fourth causes of action of the Complaint against Caltrans moot and they are accordingly  
21 hereby dismissed and, since this Court has heretofore issued its writ of mandate on the fifth  
22 cause of action in the Complaint against Caltrans under the Public Records Act, there is  
23 nothing further to adjudicate and the within judgment is the final judgment in the action and  
24 fully resolves all issues between and among the parties; and it is  
25  
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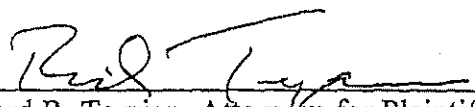
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FURTHER ORDERED, ADJUDGED AND DECLARED, that the Court shall retain jurisdiction of this action for the purpose of enforcing this Judgment.

DATED: 4/5, 2007

  
\_\_\_\_\_  
Judge of the Superior Court

Presented by:  
BANNAN, GREEN, FRANK & TERZIAN LLP

By:   
Richard R. Terzian, Attorneys for Plaintiff

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, JoAnn G. Johnson, declare as follows:

1. I am employed in the County of Los Angeles, State of California and am over the age of 18 and not a party to the within action. My business address is: 555 South Flower Street, 27<sup>th</sup> Floor, Los Angeles, California 90071.

2. On February 16, 2007, I served the foregoing document(s) described as: **[PROPOSED] DECLARATORY JUDGMENT FOR PLAINTIFF** on interested parties by placing a true copy thereof enclosed in a sealed envelope with postage fully prepared and addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepared at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY FEDERAL EXPRESS I caused such documents to be served via Federal Express to the office of the addressee.

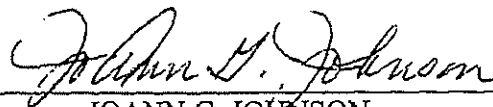
BY PERSONAL SERVICE I caused such envelope to be delivered by hand to the office of the addressee.

BY TELEFACSIMILE I caused such documents to be served via facsimile transmittal to the office of the addressee.

STATE                       FEDERAL

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct and if called upon, I could and would competently testify thereto.

Executed February 16, 2007, at Los Angeles, California.



JOANN G. JOHNSON

**SERVICE LIST**  
**CITY OF SOUTH PASADENA v. CALTRANS, etc. (BC331628)**

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<p>Lane J. Thomas, Esq. Counsel for Beacon Housing 225 South Lake Ave., Fl. 9 Pasadena, California 91101 Tel: (626) 304-7065 Fax: (626) 796-4738</p>	<p>Robert B. Schoenburg, Deputy Attorney William H. Rittenburg, Deputy Attorney Erick Solares, Esq. Counsel for The People of the State of California, by and through the Department of Transportation 100 South Main Street, Suite 1300 Los Angeles, California 90012-3702 Tel: (213) 687-6000 Fax: (213) 687-8300</p>
<p>Scott Carlson, Esq. Co-counsel for Beacon Housing 301 East Colorado Blvd. Suite 320 Pasadena, California 91105 Tel: (626) 796-6161 Fax: (626) 796-0593</p>	<p>George C. Spanos, Esq. Counsel for California Transportation Commission Office of the Attorney General 1300 I Street, #1101 P.O. Box 944255 Sacramento, California 94244-2550 Tel: (916) 324-7862 Fax: (916) 327-2247</p>
<p>C. Granville-Mathews, Esq. Counsel for Esperanza Charities, Inc. Mathews and Weisser 345 S. Figueroa Street, M-6 Los Angeles, California 90071 Tel: (213)621-2555 Fax: (213) 621-2556</p>	



# CALIFORNIA'S HOUSING CRISIS & ANNUAL HOUSING REPORT

STUDY SESSION  
MARCH 21, 2018

---

City of South Pasadena



Additional Material  
AGENDA ITEM # 15  
3/21/18 City Council Mtg.

Watkins



## Why Are We Talking About Housing?

- California has a severe housing crisis
- Supply of housing lags behind high demand
- Housing prices and rents soaring to all-time highs because of supply/demand imbalance
- People move further from jobs in search of affordable housing, with significant impacts on health, the economy, and education,







## Why Are We Talking About Housing?

- More households are paying more than 30% of their income for housing – the standard for affordability
- Federal and state funding for subsidies have declined over time, leaving the State with fewer options for addressing the housing crisis
- The State's response—in light of reduced funding—has been to force cities to allow more development , more density, and more affordability in ways that may not jibe with local General and Specific Plans, and Zoning Codes



# What About South Pasadena?

- South Pasadena supports affordable housing as an important element of a sustainability
- The challenge: How do we balance the City's unique charm and character, fiscal and infrastructure priorities, and quality of life while responding to the State's legislative mandates?
- Over the next year, Staff will bring forward a variety of options and tools that can facilitate the creation of affordable housing
- Tonight: Inclusionary zoning and linkage fees
- Create affordable housing on our terms, not the State's



# TONIGHT'S AGENDA

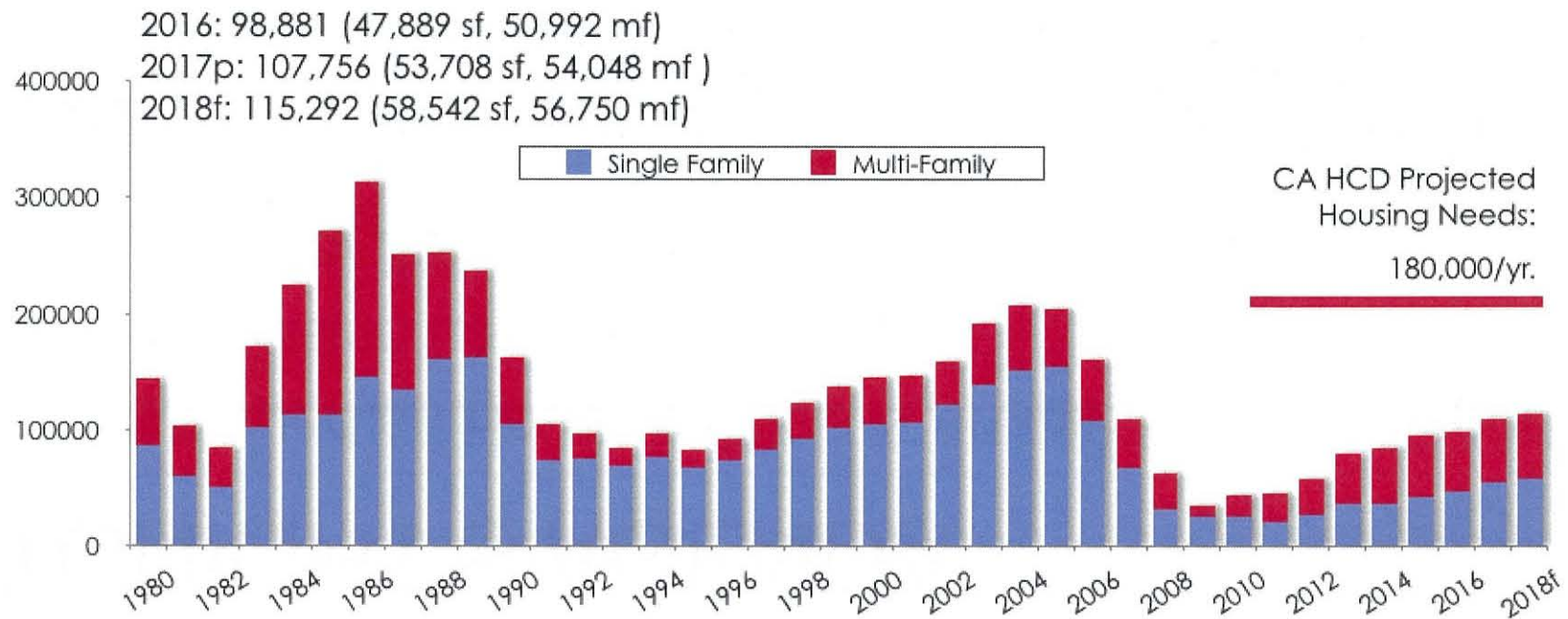
- Background on Housing Crisis & Annual Housing Report
- 2017 Housing Legislative Package
- Inclusionary Zoning Ordinance & Linkage Fees





# Supply/Demand Imbalance

- California not building enough housing
  - Last 10 years, average of 80,000 homes/year built
  - Need 180,000/year to keep pace with household growth





# Supply/Demand Imbalance = Higher Costs

- “Overpay”
  - Spend more on housing, less discretionary spending on consumer goods – impact on larger economy
  - Less savings for emergencies, health care, retirement, college, etc.
- “Over-commute” – locate further from jobs to find affordable housing
  - Traffic congestion
  - Air pollution/GHG Emissions
  - Loss time (family; civic volunteerism and engagement)
  - Housing/transportation cost conundrum
- “Overcrowd”
  - Health impacts – infectious diseases, blood pressure, etc.
  - Psychological stress



# What is Affordability?

- Benchmarks established by U.S. Department of Housing and Urban Development (HUD)
- Affordable: Households pay no more than 30% of their income towards housing costs (includes utilities).
- More than that: “Housing cost burdened”
- More than 50%: “Severely housing cost burdened”
- Income levels measured by “Average Median Income”(AMI) by specific geographical area



# What is Affordability?

Income Level	Income Limits
Above-Moderate Income	121% of AMI and above
Moderate Income	81% - 120% of AMI
Low Income	51% - 80% of AMI
Very-Low Income	31% - 50% of AMI
Extremely Low Income	0% - 30% of AMI



# What is Affordability?

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Los Angeles County 4-Person Area Median Income: <b>\$64,800</b>	Extremely Low	18950	21650	24350	27050	29250	32960	37140	41320
	Very Low Income	31550	36050	40550	45050	48700	52300	55900	59500
	Low Income *	50500	57700	64900	72100	77900	83650	89450	95200
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

\*Low income exceeding median income is due to HUD adjustments to the Very Low-Income income limit to account for high housing costs.





# Housing Affordability

## Comparison of Selected Housing Characteristics

	South Pasadena	Los Angeles County
Owner Occupied	44.1%	45.70%
Renter Occupied	55.9%	54.30%
Median Rent	\$1,464	\$1,264
Median Home Value	\$876,900	\$465,000
Mortgage, % of Income		
30-34.9%	12.90%	9.40%
35%+	28.00%	36.90%
<b>Total</b>	<b>40.90%</b>	<b>46.30%</b>
Rent, % of Income		
30-34.9%	8.30%	9.40%
35%+	35.50%	49.90%
<b>Total</b>	<b>43.80%</b>	<b>59.30%</b>
Vacancy Rate		
Owner-Occupied	1.70%	1.1%
Renter-Occupied	1.80%	3.3%

Source: American Community Survey 2016



# State's Approach to Housing Production

## RHNA

- State Department of Housing and Community Development (HCD) creates housing production goals for each region in the State, broken down by affordability level. South Pasadena belongs to the Southern California Association of Governments region (SCAG)
- This process is called the Regional Housing Needs Assessment (RHNA)
- Once each region receives its housing allocation from HCD, they each begin a process to allocate these housing goals to each city within their region (and unincorporated areas)
- Once final, each city uses these housing goals in their Housing Elements



# State's Approach to Housing Production

## Housing Elements

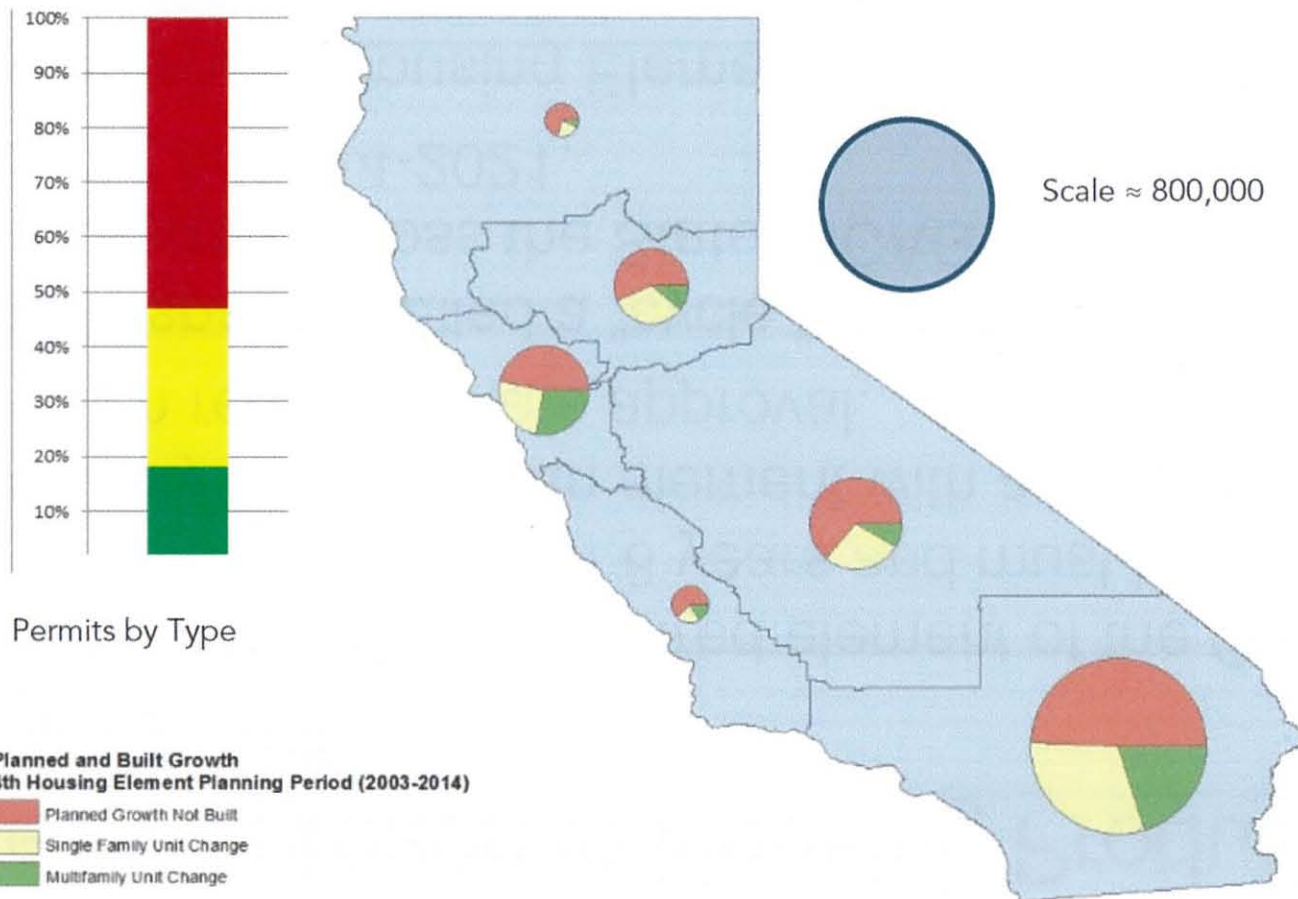
- Housing Elements – a required element of the General Plan – have a life span of 8 years and must be certified by HCD. Only General Plan element with a limited shelf life and which requires State approval.
- Each life span is called a “cycle.” Housing Element cycles are staggered across the State; SCAG is currently in “Cycle 5,” or 2014-2021.
- Key element of Housing Elements: Each city must show that they have sufficient zoning capacity at appropriate densities to accommodate their RHNA allocation.
- South Pasadena’s “Cycle 5” Housing Element was certified by HCD in 2014.



# State's Approach to Housing Production

## "Cycle 4" Performance – How Did Everyone Do?

All Regions Have a Shortfall in Meeting Production Goals





# Regional Housing Needs Assessment

## “Cycle 5” Status – Annual Housing Report

- Cities required to file an Annual Housing Report with HCD by April 1 of each year for the previous calendar year
- Annual Housing Reports track a city’s progress towards their RHNA goals
- City of South Pasadena Progress:

### City RHNA Progress

(Building Permits Issued)

	RHNA by Income Level	2013	2014	2015	2016	2017*	Total
Very Low	17	0	0	0	0	0	0
Low	10	0	0	0	0	0	0
Moderate	11	0	0	0	0	1	1
Above Moderate	25	6	40	6	11	18	81
<b>Total RHNA</b>	<b>63</b>	<b>6</b>	<b>40</b>	<b>6</b>	<b>11</b>	<b>19</b>	<b>82</b>

\*2017 Report due 4/1/18



# Now What?

- State Legislature wants to remove barriers to housing construction. What are the barriers?
  - High land costs
  - Construction costs, including materials and labor
  - Labor shortages
  - Private Financing
  - Public Subsidies
  - “Fiscalization of land use” (i.e., Proposition 13)
- BUT: The prevailing perception is that city discretionary review processes and the California Environmental Quality Act (CEQA) are primary culprits
- Legislative efforts include ramping up pressure on city’s to streamline, make more project reviews ministerial (no public hearings)

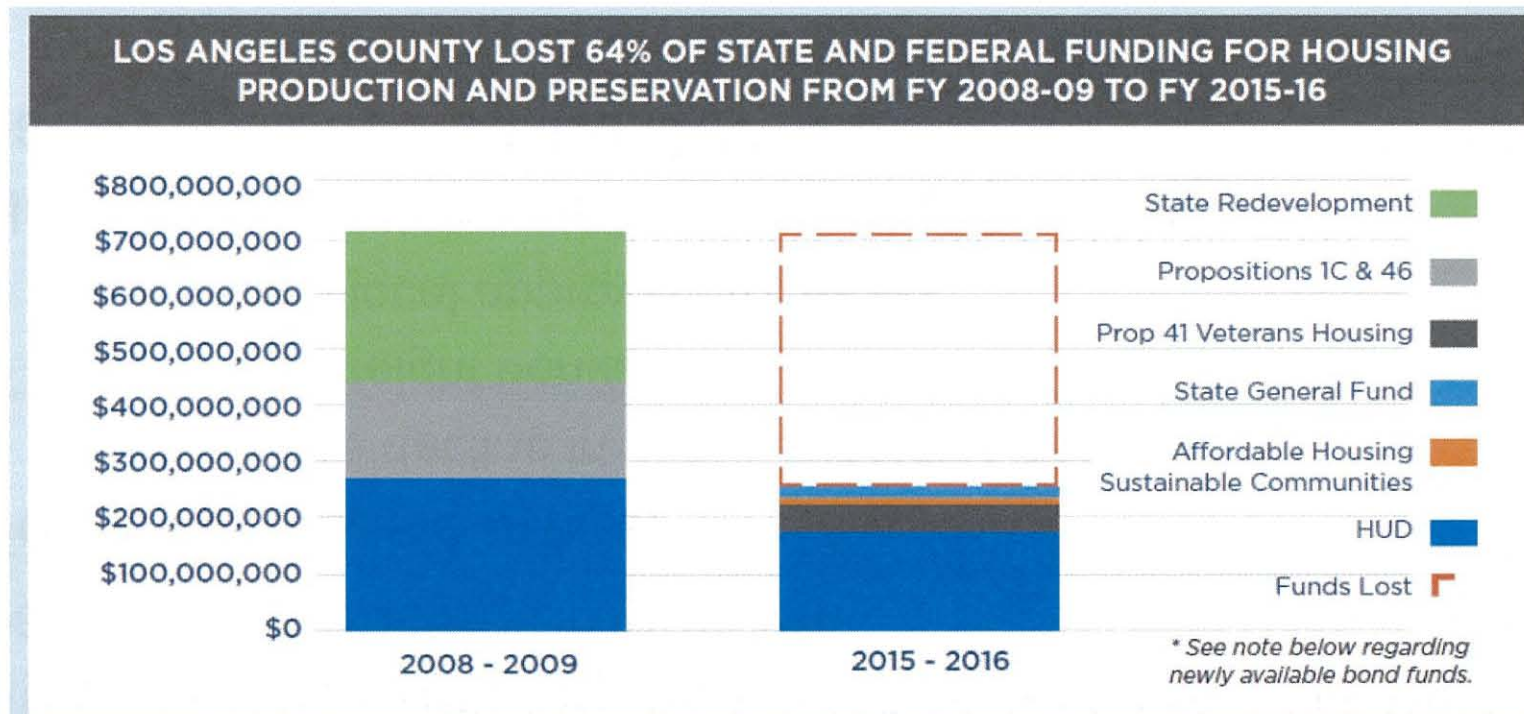


# State Response to Housing Crisis

- Aggressively pursuing legislation to remove or reduce barriers to housing production.
- Focus on 3 basic areas:
  - Reversing the decline in public subsidies and funding
  - Density and height bonuses
  - Streamlining local approval processes
- Next presentation summarizes the 2017 legislative package signed by the Governor



# Funding Subsidies – Need to Stop the Bleeding



FUNDING SOURCE	FY 2008-2009	FY 2015-2016	% CHANGE
State Redevelopment	\$274,787,841	\$0	-100%
State Housing Bonds and Housing Programs	\$176,595,573	\$85,478,030	-52%
U.S. Dept. of Housing & Urban Development	\$260,516,144	\$169,556,041	-35%
<b>Total</b>	<b>\$711,899,558</b>	<b>\$255,034,071</b>	<b>-64%</b>





# Density/Height Bonuses

- State law requires all cities to have a density bonus ordinance consistent with state parameters (“SB 1818”)
- State asserts that higher densities allows high land costs to be spread over more units, reducing the per unit cost and reducing public subsidy per unit cost
- SPMC 36.370
- City Council approved a zoning code amendment in 2014 to bring older zoning code provisions into compliance with state law
- This code amendment was an HCD condition in order to obtain certification of 2014-2021 Housing Element



# Streamlining Local Reviews

- State asserts that local regulatory barriers (lengthy development or design reviews) impact type, quantity and location of housing
- Ministerial reviews vs. discretionary reviews
- Local opposition to housing projects can also hinder housing development.
- Cities left to deal with competing priorities – infrastructure capacity, local plan consistency and other local planning goals





## What Else?

- Housing Element “Cycle 6” (2021 – 2029)
- SCAG RHNA allocation process will proceed in conjunction with the 2020 RTP/SCS (state law requirement)
- SCAG timeline for developing RHNA allocation to cities available later this year, but final adoption by SCAG Regional Council is scheduled for October 2020.
- City adoption of Cycle 6 Housing Element by October 2021





## Next Up

- Summary of Recently Approved Affordable Housing Bills (City Attorney)
- Inclusionary Zoning Ordinances & Linkage Fees (Kathe Head, Managing Partner, Keyser Marston, Inc.)
- Questions?



# California's 2017 Affordable Housing Bills

March 21, 2018  
City of South Pasadena

Teresa L. Highsmith, City Attorney



COLANTUONO  
HIGHSMITH  
WHATLEY, PC

3/21/18

16

# Background: How did we get here?

- Barriers to Creation of Affordable Housing
  - **Inadequate Funding** to Subsidize production
    - High cost of land and construction costs
    - Development Process (local land use regulations)
      - New State Legislation Focuses on Local Regulations
        - Creates New requirements for Housing Element
        - Creates New “Steamlining” of local processes
        - Provides some funding to support creation of housing



COLANTUONO  
HIGHSMITH  
WHATLEY, PC

# Background: Housing Element 101

- Housing Element—One of 7 mandatory elements of General Plan
  - Outlines the City's plan for meeting its "fair share" of regional housing
    - "RHNA" established by Southern California Association of Governments
  - Identifies inventory of sites suitable for development of RHNA
  - Cities are not required to build any housing—just to plan for it
  - Analysis of "constraints" on housing development; how to overcome
  - Housing Element submitted to HCD for certification every 8 years
    - South Pasadena has a certified Housing Element: next cycle due 2021
  - Annually (by April 1<sup>st</sup>) City reports its progress on RHNA



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# 15 New Bills Signed on September 29, 2017

## Senate Bills

- SB 2 (Atkins)
- SB 3 (Beall)
- SB 35 (Wiener)
- SB 166 (Skinner)
- SB 167 (Skinner)
- SB 540 (Roth)

## Assembly Bills

- AB 72 (Santiago/Chiu)
- AB 73 (Chiu)
- AB 571 (E. Garcia)\*
- AB 678 (Bocanegra)\*
- AB 879 (Grayson)
- AB 1397 (Low)
- AB 1505 (Bloom/Bradford/Chiu/Gloria)
- AB 1515 (Daly)
- AB 1521 (Bloom/Chiu)\*



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# Housing Element: Housing Inventory

## AB 1397 – Sites “Suitable” & “Available”

**Former Law – Gov. Code § 65583-65583.2**

- **Land Suitable for Development**

- Vacant site zoned residential
- Vacant site zoned non-residential, but allows residential development
- Non-vacant site zoned residential, but capable of higher density
- Non-vacant site zoned non-residential, but capable of residential development

- Lower income sites:
  - Size: Less than 10 acres and more than 0.5 acre
  - Density: Default of 10-30 units/acre
  - By Right Zoning: if 20% of development is affordable to low income households
- No more vacant site recycled over two planning periods
- Non-vacant site identified in a prior housing element
- Utilities available and accessible

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# Housing Element: Preserving Affordability in No Net Loss Zoning

## Former Law – Gov. Code § 65863

- Residential Density May Not be Reduced Below Density in HCD-Approved Housing Element
- Exception: Where Remaining Sites can Accommodate RHNA
- Problem: Site Identified for Affordable Housing Developed with Market-Rate Housing

## AB 166 – Density by Income Category

- Residential Density Maintained by Income Category
- Exception: Where Remaining Sites can Accommodate RHNA by Income Category
- Solution: If Remaining Sites are Insufficient, City has 180 Days to Rezone for Additional Sites

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# Housing Element: Analyzing Constraints on Development

## Former Law – Gov. Code § 65583(a)(5)

- Land Use Controls
- Building Codes & Their Enforcement
- Local Processing & Permit Procedures
- Fees & Other Exactions

## AB 879 – Expanded Analysis

- Ordinances Affecting the Cost or Supply of Residential Development
- Requests to Develop Housing at Lower Densities
- Length of Time Between Approval of Housing Development and Applying for Building Permits
- Identify Local Efforts to Remove Nongovernmental Constraints
  - Costs of land, financing, construction

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# Housing Element: Expanded Power of HCD

## Former Law – Gov. Code § 65585

- HCD Reviews Housing Element Before Adoption
  - Certifies, if compliant
  - If Inventory of Sites are Inadequate to Accommodate RHNA, City Must Rezone within 3 Years
- HCD Does Not Enforce Provisions of Adopted Housing Element

## AB 72 – Ensuring Accountability

- HCD Reviews City Actions After Housing Element adoption for Consistency with:
  - Housing Element
  - Inventory of Sites
  - Programs to Rezone
- City Actions includes Adoption of Ordinances, approvals/non-approvals of projects
- HCD issues written findings of non-compliance
  - City must respond within 30 days
- If Action Inconsistent, HCD May Revoke Prior Compliance Finding (decertification possible)

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# Housing Element: Annual Reporting and HCD Review

## Former Law – Gov. Code § 65400, 65583

- General Law City Must Submit an Annual Report by April 1<sup>st</sup> to:
  - City Council
  - Governor's Office of Planning and Research
  - HCD
- Annual Report Must Include:
  - Implementation of General Plan
  - Progress in Meeting Their RHNA
  - Efforts to Remove Governmental Constraints to Development
- No penalties for late or non-submittal of annual report

## AB 879, SB 35 – Expanded Scope

- General Law and Charter Cities Must Additionally Report on:
  - Number of Housing Development Applications Received
  - Number of Proposed Units in Applications
  - Number of Units Approved/Rejected
  - Listing of Rezoned Sites
  - Number of New Rental/For-Sale Housing Units Issued Entitlements, Building Permits, or Certificates of Occupancy
  - Failure to submit report by May 31<sup>st</sup> can result in Court order and sanctions

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# Streamlining: Strengthening the "Housing Accountability Act" For All Housing Types

## Former Law – Gov. Code § 65589.5

- Prohibits City From Disapproving or Conditioning Approval of Affordable Housing, Unless Specified Findings are Made
- Cities May Disapprove of a Project Based on Inconsistency with the Zoning Code or General Plan
- Judicial Review Standard: Substantial Evidence

## SB 167, AB 1515 – Increasing Burden of Proof

- Approve ANY housing project/density that complies with objective GP, zoning, subdivision laws
- Consistency findings 30-60 days after application "deemed complete"
  - Project "deemed consistent" otherwise
- Denial requires "specific adverse impact" on public health and safety (unmitigated)
- Judicial review standard increase to: "Preponderance of Evidence"

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# Streamlining: Ministerial Review for Some Multi-family Housing Projects

## Former Law – Gov. Code § 65400

- Affordable Housing Projects May be Subject to:
  - Discretionary Approval or
  - Ministerial Review
- BUT, Cannot impose requirements on affordable housing or emergency shelter to render project infeasible

## SB 35– Ministerial Review

- Housing Projects Ministerially Reviewed If:
  - Project is Multifamily (2 or more units), Affordable, and Meets State/Local Standards
    - 50% of units must be low income housing
  - Site is Zoned Residential and Near Urban Areas City Failed to Meet Its RHNA OR Failed to Submit Annual Report
- Exceptions to SB 35: Include high/very high fire hazard severity zones, flood zones, earthquake or wetlands, coastal, demo of historic properties, demo of property w/tenants in past 10 years

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# City Streamlining: Workforce Housing Opportunity Zones and Housing Sustainability Districts

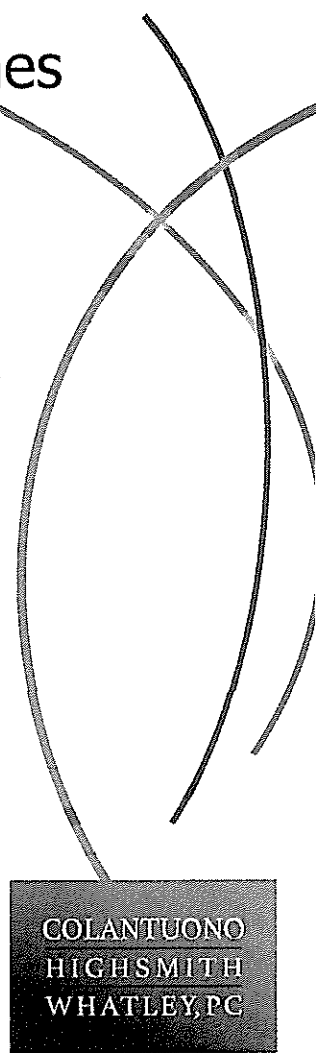
	SB 540: WHOZ	AB 73: HSD
Method of Adoption	Specific Plan	Ordinance
Requires HCD Approval	No	Yes
Ministerial Issuance of Permit	Yes	Yes
Application Approval Deadline	60 Days	120 Days
EIR Required to Approve Zone/District	Yes	Yes
EIR Required for Individual Housing Permits w/in District	No	No
Development Project Within Zone/District Requires Prevailing Wages	Yes	Yes
Term of Zone/District	5 Years	10 Years

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# City Streamlining: Workforce Housing Opportunity Zones V. Housing Sustainability Districts

	SB 540: WHOZ	AB 73: HSD
Financial Incentives Provided by HCD	Grant or No-Interest Loan	Zoning Incentive Payment*
Percentage of Development Dedicated to Affordable Housing	At Least 50% of Units (30% or Moderate-Income; 15% for Low; 5% for Very Low)	At Least 20% of Units
Percentage of City's RHNA That May be Included in Zone/District	50%	100%
Limitation on Development	100 – 1,500 Units	15% of City's Total Land Area for a Single District; 30% of City's Total Land Area for All Districts



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# Return of Inclusionary Rental Housing

## Former Law – Gov. Code § 1954.53(a)

- *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396
- City can set the initial sales price of for-sale inclusionary housing
- City cannot set the initial rental price of for-rent inclusionary housing (violation of Costa-Hawkins Act)

## AB 1505 – Rental Inclusionary Housing

- City can set the initial rental price, but cannot unduly constrain development
- HCD Reviews Inclusionary Housing Ordinance If:
  - Adopted or Amended After 9/15/2017;
  - Ordinance Requires More than 15% Affordable Housing; AND
  - City Failed to Meet 75% of RHNA In Past 5 Years or to Submit Housing Element Report In Past 2 Y

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# Funding Affordable Housing

## SB 2

- \$75 Fee on Recording Real Estate Transaction Documents
  - \$225 max per document/per transaction
  - Excludes Home Sales
- \$200-\$300 Million Per Year expected
- 1-1-19: cities/HCD 50%/50% funds
- 1-1-20: cities/HCD 70%/30% funds
- City can spend on any aspect of affording housing planning or programs

## SB 3

- Authorizes \$4 Billion in General Obligation Bonds
  - IF Approved by Voters During the November 2018 Elections
- Includes Funding for Veteran's Home Ownership Program

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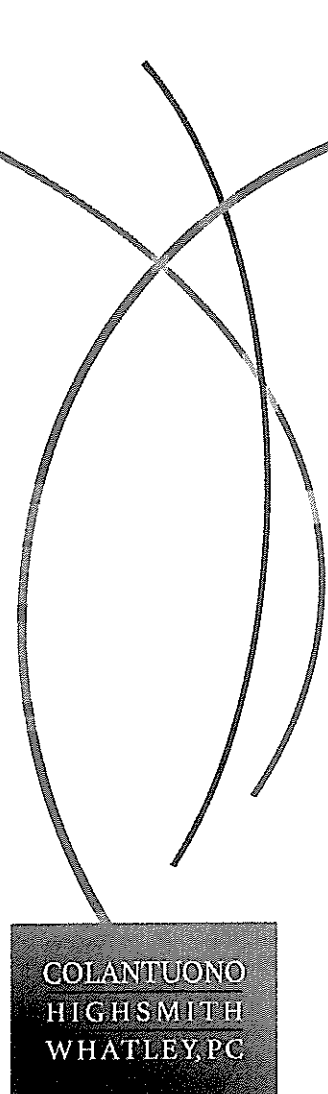
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# Inclusionary Housing and Commercial Linkage Fee Programs City of South Pasadena

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Keyser Marston Associates, Inc.

March 21, 2018

## Purpose of the Report

- Provide background information on residential and commercial development trends in South Pasadena.
- Identify the City's affordable housing requirements.
- Summarize the tools that are available to attract affordable housing.
- Provide overviews of Inclusionary Housing and Commercial Linkage Fee programs.

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## Background Information

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## Existing Residential Conditions

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- 82 residential units were developed in South Pasadena between 2013 and 2017.
  - 81 of the units were above-moderate income.
  - One unit was an ADU at the moderate income level.
- The Regional Housing Needs Assessment (RHNA) goal for above - moderate income housing between 2014 and 2021 is 25 units.

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## RHNA Goals for Affordable Housing: 2014 - 2021

Income Category	Number of Units	% of Total
Very-Low Income	17	45%
Low Income	10	26%
Moderate Income	<u>11</u>	<u>29%</u>
Total	38	100%

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## Potential Residential Development Sites

- Based on the 2014 Housing Element Update, there are currently four sites that have the potential to be developed with 154 units.
- To fulfill the defined affordable housing goals, 25% of the units would need to be affordable, and nearly half of those units would need to be targeted to very-low income households.
- Total development potential could be increased by up to 35% if developers use the Government Code Section 65915 density bonus.

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## Development Trends

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- As part of the General Plan update, the City is evaluating the potential for the following development between 2018 and 2040:
  - 500 residential units
  - 130,000 square feet of retail space
  - 300,000 square feet of office space

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## Affordable Housing Tools

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- The 2012 termination of redevelopment eliminated the most significant affordable housing financial resource in the State.
- Primary Federal, State and County funding sources are currently focused on deep affordability standards.
- As resources continue to decline, many communities have turned to Inclusionary Housing and Linkage Fee programs.

April 23, 2018

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## Background Information: Inclusionary Housing and Linkage Fee Programs

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## Inclusionary Housing Programs vs Residential Linkage Fee Programs

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- Inclusionary Housing Programs:
  - Focused on requiring residential developers to provide affordable units.
  - Options are provided to production such as in-lieu fee payment.
  - Can be used to fulfill existing and future affordable housing needs.
- Residential Linkage Fee Programs:
  - Must comply with the Mitigation Fee Act.
  - Revenue based program. No production option.
  - Can only be used to fulfill future affordable housing needs.

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## Inclusionary Housing Program Advantages

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- It is not advisable to adopt both types of programs due to financial burden issues. Inclusionary Housing is recommended over a Residential Linkage Fees for the following reasons:
  - Flexibility to meet current and future affordable housing needs.
  - Programs typically include in-lieu fee options, which can be structured to generate more revenue than a Residential Linkage Fee.

## Commercial Linkage Fee Programs

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- Commercial Linkage Fees are tied to new commercial development.
- Concept is that new commercial development will generate new jobs, and some of the new employees will need affordable housing.
- Commercial Linkage Fees allocate a portion of the financial responsibility for affordable housing on commercial developers.
- There must be a nexus between the development and the increased need for affordable housing.
- These programs are currently mainly found in Northern California.

## Inclusionary Housing Program Characteristics

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### Basic Parameters

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- Most programs impose requirements on a mandatory basis.
- Advisable to tie the requirements to identified need such as RHNA.
- Can be applied to both ownership and rental housing.
- Cannot deprive property owners of “all economically beneficial use” of their property.

## Structuring Issues

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- Threshold project size typically falls between three and 10 units.
- Different income standards for ownership vs rental projects.
- Requirement is typically set at 10% to 20% of units.
- Covenant period varies from jurisdiction-to-jurisdiction.

## Production Options

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- On-site within the market rate project
- Off-site within close proximity to the market rate project
- In-Lieu fee – by right or based on proven need
- Land donation
- Acquisition and substantial rehabilitation

## Production Potential

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- Development Constraints
  - Commonly held theory that Inclusionary Housing programs negatively impact housing production.
  - KMA evaluated building permit data in four cities with Inclusionary Housing programs, and found that production increased and decreased in no particular pattern before and after the requirements were adopted.

## Section 65915 Density Bonus

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- Developers are entitled to apply for statutorily established density bonuses if the following income and affordability standards are met.
  - Income standards are set at the very-low, low and moderate income level for ownership units. Only very-low and low income units qualify for rental projects.
  - The affordable sales prices and rents are based on standards imposed by the California Health and Safety Code.

## Section 65915 Income Standards

	Very-Low Income	Low Income	Moderate Income
Minimum Density Bonus	20%	20%	5%
Affordable Housing %	5%	10%	10%
Maximum Density Bonus	35%	35%	35%
Affordable Housing %	11%	20%	40%

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## Section 65915 Affordable Housing Costs

	Very-Low Income	Low Income	Moderate Income
<b>Rental Units</b>			
2 Bedrooms	\$680	\$826	N/A
3 Bedrooms	\$750	\$912	N/A
<b>Ownership Units</b>			
2 Bedrooms	\$67,400	\$118,100	\$266,300
3 Bedrooms	\$73,200	\$129,600	\$294,200

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## Density Bonus Coupled with Inclusionary Housing

- If 500 residential units are constructed in South Pasadena, and a 15% Inclusionary Housing requirement is applied, 75 affordable units would be generated.
- If Inclusionary Housing is enacted, some developers will likely use the Section 65915 density bonus. With a 35% maximum bonus and 500 unit growth projection, total development equals 675 units.
- Inclusionary requirements can only be applied to base zoning units. This means 600 market rate and 75 affordable units.

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## Density Bonus Without Inclusionary Housing

- Developers may apply for Section 65915 density bonuses even if the City does not enact an Inclusionary Housing program.
- At 500 unit growth projection, and maximum density bonus:
  - A total of 675 units would be developed.
  - The affordable housing production would be:
    - 55 very-low income rental or ownership units; or
    - 100 low income rental or ownership units; or
    - 200 moderate income ownership units.

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## Inclusionary Housing Program Recommendations

- Balance requirements against the economic impact on property owners.
- Alternatives should be economically comparable to production.
- A phase-in period should be provided.
- Minimum project size should set.
- Income and affordability standard should be established.
- Covenant periods should be established for rental and ownership.
- Establish administrative procedures and update them periodically.
- Create a staffing plan.

## Commercial Linkage Fee Program Characteristics

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## Overview

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- To adopt and implement a Commercial Linkage Fee program it is necessary to document the linkages among:
  - The construction of new commercial uses;
  - The employees that will work in the new development; and
  - The increased demand for affordable housing.

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## Affordable Housing Benefits to Commercial Projects

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- An increase in affordable housing strengthens the local jobs-housing balance.
- Larger and diverse labor pool provides employers with increased opportunity to fill job openings.
- Affordable housing can result in greater workforce stability, and less worker turnover.
- It has been estimated that the cost to replace a worker can range between 15% and 30% of a worker's salary.

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## Nexus Analysis Methodology

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- A nexus must be established between development and the increased need for affordable housing. Key concepts are:
  - Fees can only be used to address future affordable housing needs.
  - Commuting patterns influence housing choices.
  - Existing residents will fill some jobs.
  - Increased need for affordable housing is tied to salaries at the new jobs.

## Commercial Linkage Fee Recommendations

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- Commercial Linkage Fees should be set at the lesser of:
  - The amount supported by the Mitigation Fee Act; or
  - The financially feasible amount; or
  - The amount that does not impact competitiveness for desired development.
- The Fee amount should be adjusted annually to keep pace with upward and downward changes in economic conditions.
- Use of the Fee revenue should be identified at program adoption.

## Commercial Linkage Fee Recommendations

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- The amount of revenue will be dependent on the timing of development. It may take an extended time period to collect enough revenue to assist in producing affordable housing units.
- Using the \$5 per square foot fee being charged by Los Angeles, the 430,000 square feet of projected growth generates \$2.15 million in Fee revenue through 2040.