

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



May 15, 2024

Craig Weber, Principal City Planner
City of Los Angeles
200 N. Spring Street
Los Angeles, CA 9001

Dear Craig Weber:

**RE: City of Los Angeles Boyle Heights Community Plan Area – Conditional
Approval of Interim Control Ordinance Demolition Restrictions for RSO and
Covenanted Affordable Units**

This letter provides a determination to the City of Los Angeles (City) regarding the request to approve an Interim Control Ordinance (ICO) to temporarily prohibit the issuance of demolition permits for rent stabilized multi-unit housing under the City's Rent Stabilization Ordinance (RSO), covenanted affordable housing units, and potentially historic resources in the Boyle Heights Community Plan Area (CPA) until the updated community plan takes effect.¹ The California Department of Housing and Community Development (HCD) is statutorily required to provide a determination regarding a proposed moratorium or other restrictions on or limitations of housing development.²

HCD received a request for approval of the proposed ICO, met with City staff, and reviewed relevant materials (e.g., proposed ICO, City staff's response letters to HCD's Letter of Inquiry, City's ICO report, etc.). Upon review of the written materials and discussion with the local jurisdiction, HCD has determined that the demolition provisions for RSO units and covenanted affordable units proposed in the ICO comply with Government Code section 66300, subdivision (i), of the Housing Crisis Act (HCA) by intending to preserve existing affordable housing for lower-income households and units subject to rent control. However, HCD finds that the provisions of the ICO related to the protection of potential historic resources do not comply with requirements of the HCA and are therefore not approved.

HCD notes that the ICO provisions regarding the Boyle Heights CPA are narrowly tailored, applying only within the specific parameters outlined below:

- Housing type – RSO units and covenanted affordable units

¹ Interim Control Ordinance, City of Los Angeles, pg. 1.

² Gov. Code, § 66300, subd. (b)(1)(B)(ii).

- Geography – within the Boyle Heights Community Plan Area
- Project types – demolition permits for RSO units and covenanted affordable units
- Timeline – ICO to be rescinded when updated Boyle Heights Community Plan takes effect, which is anticipated by the end of 2024

RSO Units in the Boyle Heights Community Plan

HCD understands that a rental unit may be subject to the City's RSO if the property was built on or before October 1, 1978. Additionally, units constructed after July 15, 2007, that replace demolished RSO units may also be covered under the RSO. The RSO covers allowable rent increases, registration of rental units, legal reasons for eviction, types of evictions requiring payment of tenant relocation assistance, RSO disclosure notice for all "cash for keys" or buyout agreements, and interest payments on security deposits.³

The Boyle Heights CPA consists of approximately 16,000 parcels and 23,250 dwelling units. About 75 percent of the population in the CPA are renters. Approximately 71 percent of the multi-family units in the CPA were built before 1978 and potentially qualify for the City's RSO. HCD understands that approximately 65 percent or 4,300 properties are currently subject to the city's RSO. This includes about 15,136 RSO units. Between 2010 and 2023, approximately 226 units were demolished in the CPA, and although the City suspects many of these were RSO units, there is no data to confirm this at this time. Between 2013 and 2023, approximately 136 RSO units were removed from the rental market in Boyle Heights due to Ellis Act evictions.⁴

Boyle Heights Community Plan Update

The City has 35 community plans which comprise the Land Use Element of the City's General Plan. Community plans designate land uses and guide decision-making when projects are proposed.⁵ HCD understands that while proposed changes to the City's zoning code are typically done through community plan updates, the City's zoning code is comprised of separate regulations contained in the City's Municipal Code. The Boyle Heights Community Plan Update (BHCPU) proposes policies that are intended to provide more protection for RSO units. The proposed policies include:

³ What is Covered under the RSO, Los Angeles Housing Department, <https://housing2.lacity.org/residents/what-is-covered-under-the-rso#:~:text=If%20you%20rent%20in%20the,be%20covered%20under%20the%20RSO>.

⁴ Proposed Interim Control Ordinance for the Boyle Heights Community Plan Area, City of Los Angeles, Letter to HCD, pgs. 2-3; Proposed Interim Control Ordinance and Related Report on Demolition and Construction in the Boyle Heights Community Plan Area During the Period from 2010-2023, PLUM Committee, pgs. 2-3

⁵ Boyle Heights Community Plan Update, Los Angeles City Planning, <https://planning.lacity.gov/plans-policies/community-plan-update/boyle-heights-community-plan-update>.

- Requires 1-to-1 replacement of lost RSO units with onsite restricted affordable units.
- Makes the tenant protection measures established under the HCA permanent.
- Adds tenant anti-harassment regulations.
- Prohibits the demolition of dwelling units until permits for a replacement project with adequate housing are approved.
- Adds a new Acutely Low-Income Category.
- Requires 99-year covenants for affordable units.⁶

The City Council adopted the BHCPU on December 12, 2023 with amendments, including a request for the City Attorney to begin preparing the final ordinance.⁷ HCD understands that the City anticipates finishing the BHCPU adoption process during the summer of 2024, with the final ordinance intended to go into effect by the end of 2024. The ICO has been proposed as an interim measure to protect both RSO multifamily housing units and covenanted affordable housing units from demolition and evictions until the BHCPU becomes operative.

Exceptions to the Prohibition on a Moratorium or Similar Restrictions on Housing Developments Under the HCA

Pursuant to Government Code section 66300, subdivision (b)(1)(B)(ii), an affected city cannot enact a development policy, standard, or condition that would impose a moratorium or other restrictions that would limit housing development until it has submitted the ordinance to and received approval from HCD. Should HCD deny the ordinance, that development policy shall be deemed void.

The HCA contains two exceptions to the prohibition on a moratorium or similar restriction:

- 1) Government Code section 66300, subdivision (b)(1)(B)(i): The conditions must demonstrate “an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium....”
- 2) Government Code section 66300, subdivision (i): “Notwithstanding subdivisions (b) and (e), this section does not prohibit an affected city or an affected county from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a public entity’s valid exercise of its police power.”

⁶ Proposed Interim Control Ordinance for the Boyle Heights Community Plan Area, City of Los Angeles, Letter to HCD, pg. 5.

⁷ Boyle Heights Community Plan Update, Los Angeles City Planning, <https://planning.lacity.gov/plans-policies/community-plan-update/boyle-heights-community-plan-update>.

The ICO Is Intended to Preserve Housing for Lower-Income Households in the Boyle Heights CPA, Consistent with the HCA

While the exception under Government Code section 66300, subdivision (b)(1)(B)(i), requires specific health and safety findings, Government Code section 66300, subdivision (i), does not. This provision allows a city to impose a moratorium or restriction on housing development if the intention of the proposed policy, standard, or condition is to be more protective of specific types of affordable housing, including housing for lower-income households and rent-controlled housing.

Government Code section 66300, subdivision (i), includes “lower income households as defined in Section 50079.5 of the Health and Safety Code,” “housing types that traditionally serve lower income households,” and “units subject to any form of rent or price control.” Covenanted affordable units are a housing type that traditionally serves lower-income households, and RSO units meet the definition of a unit subject to any form of rent or price control. Therefore, the ICO’s proposed prohibition on demolition permits specifically for RSO units and covenanted affordable units meets the requirements of subdivision (i) as discussed below.

This limited prohibition would not prevent an applicant from applying for any other permits such as remodel permits, interior work permits, etc., for both RSO units and covenanted affordable units. Additionally, the ICO would not prevent an applicant from applying for a demolition permit, new construction permit, etc., for all non-RSO and non-covenanted affordable units in the Boyle Heights CPA.

Additionally, the City has narrowed the ICO’s provisions to apply only temporarily until the updated community plan takes effect, and only within the defined boundaries of the Boyle Heights CPA. HCD understands the BHCPU process is nearing the final stages and that the plan has already been adopted with amendments by the City Council. The City has expressed that the update process is anticipated to be completed and in effect by the end of 2024. Further, the ICO is required to comply with the limitations established under state law, including Government Code section 65858, which limits the duration of emergency ordinances (to 45 days from the date of adoption with the possibility of an extension of 10 months and 15 days and a possible further extension of one year).⁸

The ICO Related to the Brooklyn Corridor Historic District Does Not Meet the Requirements of the HCA

HCD understands that the public-right-of-way within the Brooklyn Corridor Historic District along Cesar E. Chavez Avenue is designated as Historic Cultural Monument (HCM) No. 590, and approximately 30 structures along the commercial strip are contributors to an eligible historic district. HCD understands that the ICO proposes to

⁸ Proposed Interim Control Ordinance for the Boyle Heights Community Plan Area, City of Los Angeles, Letter to HCD, pg. 9.

prevent the issuance of demolition and other permits that would affect street-facing facades of contributing features to protect the historic character of the potentially eligible historic district. This restriction is also proposed to protect any existing RSO units in the eligible historic district from demolition.

As stated in the section above, the ICO's proposed demolition restrictions for RSO and covenanted affordable units meet the requirements of Government Code section 66300, subdivision (i). Should a demolition permit be proposed for a RSO or covenanted affordable units in the Brooklyn Corridor Historic District, it would meet the requirements of subdivision (i) as the prohibition is intended to preserve lower-income and rent-controlled housing. However, a prohibition on demolition of non-RSO and non-covenanted affordable units and other permits for street-facing facades of contributing features along the Brooklyn Corridor Historic District do not meet the requirements of subdivision (i). Demolition or other actions that would affect street-facing facades that contribute to the historic character of a district would not necessarily prevent the loss of existing lower-income households or rent-controlled units. Likewise, the City has not made findings that these conditions pose "an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium."⁹

Therefore, HCD cannot approve the ICO as applied to the Brooklyn Corridor Historic District.

Displacement Protections in State Law

HCD recognizes the importance of preserving long-term affordable housing, and the following state laws include provisions that are intended to prevent the loss of affordable units and displacement. Should the City need technical assistance related to these state laws, HCD can provide further guidance.

Government Code sections 66300.5 and 66300.6 of the HCA require that all development projects that include demolition, including housing development projects and non-housing development projects, replace any existing protected units on site and provide relocation benefits to existing occupants of protected units that are lower-income households. Replacement housing for non-housing projects must be developed prior to or concurrently with the development project and may be located on a site other than the project site but must be located within the same jurisdiction.

Government Code sections 65863.10, 65863.11, and 65863.13, known as the Preservation Noticing Law, requires owners of multi-family government-assisted housing developments to provide existing and prospective tenants, tenant associations, and local public entities specified notices upon expiration or termination of subsidies or rental restrictions or prepayment of mortgage, unless specifically exempted. Additionally, owners must send a Notice of Opportunity to Submit an Offer to Purchase to all qualified entities (as certified by HCD) at least 12 months prior to expiration,

⁹ Gov. Code, § 66300, subd. (b)(1)(B)(i).

unless an exemption applies. The intent of the law is to facilitate the transfer of properties to entities that will maintain affordability if owners are willing to sell. The owner has an obligation to entertain such offers.

Conclusion

In summary, HCD has determined that the ICO's narrowly tailored proposed prohibition on demolition permits for RSO units and covenanted affordable in the Boyle Heights CPA units meets the requirements of Government Code section 66300, subdivision (i). However, HCD has also determined that the provisions related to the protection of potentially historic resources do not meet the requirements of the HCA.

HCD acknowledges that the adoption process for BHCPU is expected to conclude in the summer of 2024 with the final plan becoming operative by the end of 2024, at which time the ICO would be rescinded. HCD hereby conditionally approves the adoption and enforcement of the ICO in the Boyle Heights CPA consistent with Government Code Section 65858. As a condition of approval, the City must remove all language from the ICO that would serve only to protect potentially historic resources and for which RSO units and covenanted affordable units are not specifically implicated.

If you have questions or need additional information, please contact Deepeeka Dhaliwal, of our staff, at Deepeeka.Dhaliwal@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" written in a larger, more prominent script than the last name "West".

Shannan West
Housing Accountability Unit Chief

cc: Shana Bostin, Deputy Director of Community Planning
Ulises Gonzales, Senior City Planner
Andrew Pasillas, City Planner