



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. **R 24 - 0311**

JUN 11 2024

REPORT RE:

DRAFT INTERIM CONTROL ORDINANCE PROHIBITING THE ISSUANCE OF DEMOLITION PERMITS ON RENT STABILIZED MULTI-FAMILY HOUSING AND COVENANTED AFFORDABLE HOUSING UNITS IN THE BOYLE HEIGHTS COMMUNITY PLAN AREA, TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF RESIDENTS AND STAKEHOLDERS WITHIN THE BOYLE HEIGHTS COMMUNITY

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 22-0231

Honorable Members:

We are transmitting to you for your consideration, approved as to form and legality, the enclosed draft interim control ordinance (ICO), which would prohibit the issuance of demolition permits on rent stabilized multi-family housing and covenanted affordable housing units in the Boyle Heights Community Plan area, to protect the public health, safety, and welfare of residents and stakeholders within the boundaries of the Boyle Heights Community Plan.

Government Code Section 65858

Government Code Section 65858 authorizes a legislative body to adopt an ICO as an urgency measure, without following the procedures otherwise required by law



prior to the adoption of the ordinance, to protect the public safety, health, and welfare by prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying. The ordinance must contain legislative findings specifying a current and immediate threat to the public health, safety, or welfare, and that approval of additional entitlements or building permits would result in that threat to public health, safety or welfare. The urgency measure requires a four-fifths vote and shall be of no further force and effect 45 days from the date of its adoption unless extended pursuant to statute, for a total period of not more than 24 months. Thereafter, another interim control ordinance can only be adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim control ordinance. (Gov't Code Sec. 65858(f).)

Under Subdivision (c) of Section 65858, an interim control ordinance that could have the effect of denying development of multifamily housing, may only be adopted if written findings are adopted demonstrating approval of the multifamily housing project would have specific, adverse impacts on the public health or safety and the ICO is necessary to mitigate or avoid that impact, and there is no feasible alternative to the ICO to mitigate or avoid the impact. Under Subdivision (g) of Section 65858, "development of multifamily housing" does not include demolition of multifamily housing that is affordable to lower income households.

Housing Crisis Act of 2019 (SB 330)

The Housing Crisis Act of 2019 (Senate Bill 330) prohibits a city from adopting a moratorium that would limit housing development. (Gov. Code Sec. 66300(b)(1)(B).) This prohibition does not apply to a moratorium that is intended to "preserve ... housing for lower income households ... or housing types that traditionally serve lower income households, including ... units subject to any form of rent or price control through a public entity's valid exercise of its police power." Importantly, no moratorium that may limit housing development may be enforced until it has been reviewed and approved by the California Housing and Community Development Department (HCD). (Gov. Code Sec. 66300(b)(1)(B)(ii).)

Summary of Ordinance Provisions

The draft ICO prohibits issuance of demolition permits for two types of housing units in the Boyle Heights Community Plan area: (i) a structure subject to the City's Rent Stabilization Ordinance; and (ii) a structure containing multi-family dwelling units that are restricted by covenant for lower income households (as defined by the Health and Safety Code Section 50079.5).

A detailed analysis of the draft ordinance is included in the Planning Department's Letter to the Planning and Land Use Management (PLUM) Committee on

the Proposed Interim Control Ordinance, dated November 28, 2023, found in the Council file, and incorporated herein (Planning Department's Letter).

On December 15, 2023, the City Council adopted PLUM's recommendation to request the Planning Department to refer the ICO to HCD and for the City Attorney's Office to prepare and present the ICO with an urgency clause, including any requests required by HCD.

On May 15, 2024, HCD sent a letter to the Planning Department conditionally approving the ICO. HCD's condition for approval required the City to remove the prohibition of demolition permits that would affect street-facing facades of contributing features to the Brooklyn Corridor Historic District along Cesar E. Chavez Avenue (HCM No. 590). HCD found the City had not made the necessary findings showing that the prohibition was necessary to protect against an imminent threat to the health and safety of persons residing in or in the immediate vicinity of the area of the moratorium, as required by the Housing Crisis Act. (See Attachment '1' [HCD Letter]).

The draft ICO was prepared by this Office with the changes required by HCD. Upon adoption, the draft ICO must be reviewed and approved by HCD before it may be enforced.

The draft ICO would be in effect for 45 days from its effective date with the possibility of a 10-month and 15-day extension, which may be further extended for an additional one year from the effective date of this draft ICO, or until the Boyle Heights Community Plan Update is adopted.

Charter Findings

Should the City Council adopt this draft ICO, the City Council may comply with the provisions of Charter Section 558 by either adopting the findings of the Director of Planning as set forth in the Planning Department's Letter, or by making its own findings.

Urgency Clause

As requested by the City Council and in accordance with City Charter Section 253, the draft ICO contains an urgency clause for the immediate preservation of the public peace, health, and safety, and is effective upon publication.

CEQA Findings

Regarding the California Environmental Quality Act (CEQA), the Planning Department recommends that the City Council may determine that the draft ICO is exempt from CEQA, pursuant to California Code of Regulations, Title 14, Section 15060(c)(2) and Section 15061(b)(3), because adoption of the ICO will not result in a

directly or reasonably foreseeable indirect physical change in the environmental and has no potential for resulting in a significant effect on the environment as the ICO will maintain the status quo.

Moreover, the Department of Planning recommends the draft ICO is exempt from the City's Environmental Quality Act Guidelines pursuant to Article II Section 2 (m) in that it is only a temporary measure until appropriate land use regulatory controls are established and will not result in any impacts on the physical environment.

The City Council may rely on these findings or make its own findings.

Council Rule 38 Referral

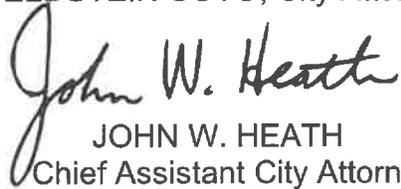
A copy of the draft ICO was sent, pursuant to Council Rule 38, to the Department of Building and Safety and the Department of City Planning. We requested the Departments to report their comments directly to you.

If you have any questions, please contact Assistant City Attorney Adrienne Khorasanee at (213) 978-8246 or Deputy City Attorney Kathryn Phelan at (213) 978-8242. They or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By


JOHN W. HEATH
Chief Assistant City Attorney

JWH:KCP:jr
Transmittal
Attachment '1' – HCD Letter