

**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



October 12, 2023

Los Angeles City Council
City of Los Angeles
200 North Spring Street, 395 Floor
Los Angeles, CA 90012

Dear City Councilmembers Eunisses Hernandez, Paul Krekorian, Bob Blumenfield, Nithya Raman, Katy Yaroslavsky, Imelda Padilla, Monica Rodriguez, Marqueece Harris-Dawson, Curren D. Price, Jr., Heather Hutt, Traci Park, John S. Lee, Hugo Soto-Martinez, Kevin de León, and Tim McOsker:

RE: Preliminary Application Vesting of ED1 Projects – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) understands that the City of Los Angeles (City) City Council will consider the Planning and Land Use Management (PLUM) Committee recommendation for denial of the appeal for the project located at 8217 North Winnetka Avenue (Winnetka Project). Additionally, HCD is aware that the PLUM Committee will consider an upcoming appeal for another project located at 7745-7751 N. Wilbur Avenue (Wilbur Project).

The purpose of this letter is to further assist the City with its decision making by providing technical assistance related to the preliminary applications as described in the Housing Accountability Act (HAA) (Gov. Code, § 65589.5) and Permit Streamlining Act (PSA) (Gov. Code, § 65941.1). HCD urges the City to apply the law consistently and to allow projects vested by the preliminary applications to be processed under the “ordinances, policies, and standards” in effect, including Executive Directive No. 1 (ED1), when the complete preliminary application was submitted.

HCD’s Prior Technical Assistance on this Matter

HCD has already issued technical assistance on this matter. The City has not presented any new information that would change HCD’s guidance. Enclosed here for the City’s convenience is a copy of HCD’s Letter of Technical Assistance dated September 14, 2023, regarding the ED1 project located at 5501-5511 N. Ethel Avenue. To reiterate, under the HAA, submission of a preliminary application that meets the requirements of the PSA at Government Code section 65941.1 vests the “ordinances, policies, and standards” in effect when the application is submitted.

(Gov. Code, § 65589.5, subd. (o)(1).) Such “ordinances, policies, and standards” include “rules, regulations, requirements, and policies of a local agency.” (Gov. Code, § 65859.5, subd. (o)(4).) HCD’s September 14, 2023, letter explains that an executive directive such as ED1 is one of the “rules, regulations, requirements, and policies” that vest upon submission of a complete preliminary application and is not excluded from the expansive HAA definition of “ordinances, policies, and standards.”

To the extent that the appeals for the Winnetka Project, Wilbur Project, or any other ED1 projects address the same question raised by the project located at 5501-5511 N. Ethel Avenue, the technical assistance provided in HCD’s September 14, 2023, letter applies. An applicant that submitted a complete preliminary application may proceed under the ED1 regulations that were in effect at the time the preliminary application was complete. The preliminary application vesting status remains in effect as long as the development application submittal occurs within the 180-day required period¹ and any revisions to the development application do not exceed a change of 20 percent of the number of residential units or square footage of construction, exclusive of any increase resulting from the density bonus, incentive, concession, waiver or similar provision.²

Conclusion

HCD found on September 14, 2023, that the preliminary application vesting rights conferred by Government Code section 65941.1 include ED1. HCD remains committed to supporting the City of Los Angeles in achieving housing objectives across all income levels and hopes the City finds this clarification helpful. HCD also reminds the City that HCD has enforcement authority over the HAA, among other state housing laws. If HCD finds that a city’s act or failure to act does not substantially comply with state law, HCD may notify the California Office of the Attorney General. (Gov. Code, § 65585, subd. (j).) If you have any questions or need additional information, please contact Gabriel A. Pena-Lora, of our staff, at gabriel.pena-lora@hcd.ca.gov.

Sincerely,



Shannan West
Housing Accountability Unit Chief

cc: Lisa M. Webber, AICP Deputy Director Los Angeles City Planning
Blake Lamb, Principal City Planner Los Angeles City Planning

Enclosure: September 14, 2023, HCD Letter of Technical Assistance

¹ Gov. Code, § 65941.1, subd. (d)(1).

² Gov. Code, § 65941.1, subd. (c).