

## Communication from Public

**Name:** James O'Sullivan  
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**Council File No:** 21-0781  
**Comments for Public Posting:** Comments on 800-840 South Fairfax Ave,  
ENV-2019-7300-SCEA

# FIX THE CITY

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December 4, 2022

VIA EMAIL:

TO: LA CITY PLUM COMMITTEE

FROM: FIX THE CITY

RE: ENVIRONMENTAL IMPACTS OF INADEQUATE RSO AFFORDABLE UNIT  
REPLACEMENT 800-840 S. Fairfax

Response to Comment 1-1:

Page 70 fails to address the state-mandated requirement to replace affordable RSO units so as to avoid displacement, and to provide the right of return to current residents. **“Strategy:** Preserve and rehabilitate affordable housing and prevent displacement.”

**“Project Consistency Assessment:** *Consistent.* The Project Site currently contains 40 multi-family residential units that would be removed as part of the Project. All current tenants would receive relocation assistance pursuant to the City’s Rent Stabilization Ordinance and Ellis Act regulations. Moreover, the Project would provide 209 multi-family residential units (169 net new units), including 28 Extremely Low Income affordable housing units, resulting in a net increase of both total residential units and restricted affordable units at the Project Site.”

There is no analysis of whether the existing 40 units are affordable and whether the relocated residents will have the right of return to affordable RSO replacement units. In fact, there are no RSO affordable replacement units. Therefore, the project is NOT consistent with preventing displacement.

Furthermore, there is no analysis of compliance with SB 330, which also requires affordable replacement housing.

The environmental analysis fails to analyze RSO affordable **housing replacement**. Replacement housing is a CEQA Checklist impact (pp. 334-337) that was not addressed in this analysis. State law requires replacement of affordable RSO units. There is no analysis of the *failure to provide replacement affordable units*: “b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?” (p. 334).

The failure to provide full replacement of affordable RSO units in addition to 28 TOC affordable units contributes to **urban decay** (increased homelessness), an adverse environmental impact that is not analyzed by DCP.

The TOC Guidelines have been declared to lack the force of law by Judge Beckloff (*Fix The City v. City of Los Angeles*, 2022). Therefore, the comments filed by Fix The City are now supported by the court, and the TOC incentives granted to this project lack legal authority.

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There is no analysis of replacement affordable housing and therefore the conclusion on p. 147 that the project would not necessitate construction of replacement housing is not supported by the evidence in the record. Fulfillment of TOC requirements does not obviate failure to provide RSO affordable replacement units under 65915 and SB 330. Furthermore, RSO replacement units are required to be on site, not off-site.

## Response to Comment 1-2:

Under CEQA, **urban decay** is an adverse impact (increased homelessness) that must be mitigated. Urban decay (increased homelessness) results from the failure to replace affordable RSO units as required by state law (65915 and SB 330), on a one-to-one basis. Under SB 330, the new project must be all RSO, and include full replacement for all affordable units of similar size.

Voters approved JJJ to increase, not reduce affordable housing. The DCP has gone rogue in developing Guidelines that defeat the essential purpose of both DB and TOC projects: to increase affordable housing. DCP and the City Council must follow state law and require one-for-one replacement of existing affordable housing and then provide additional TOC required affordable units.

The record does not include a preliminary determination by HCID Land Use for RSO affordable replacement, nor does it provide an income-based replacement analysis by HCID Rental Division. There is no explanation for the failure to comply with state law.

Indeed, the failure to provide replacement for affordable RSO units makes this project ineligible for a density bonus (65915). DCP is required to *first* require the affordable RSO replacement before requesting a density bonus under TOC or DB. Fulfilling the RSO affordable replacement is a **prerequisite** to be eligible to seek a density bonus.

TOC affordable units are not fungible for RSO affordable units. Otherwise, there is a loss of affordable housing when the fundamental purpose of DB and TOC is to increase affordable housing. DCP lacks the authority to waive RSO affordable replacement. It also lacks the authority under JJJ to count any RSO affordable units as fulfilling TOC affordable set-asides, since the TOC Guidelines have been ruled by the court to lack the force of law (Fix The City v. City of Los Angeles).

There is no substantial evidence presented to support a project that contributes to urban decay. After providing affordable RSO replacement units, the project can provide the 24 extremely low affordable TOC units to comply with TOC. In this way, the amount of affordable housing will increase. The current project creates a deficit of all affordable housing RSO units and contributes to urban decay.

Sincerely,

James O'Sullivan  
Vice President, Fix The City

Cc: Oliver Netburn