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CONTACT: Wynn Hausser, 415-431-7430 x304

Court Strikes Down Pleasanton Housing Cap, Orders Rezoning For Housing Near Jobs, Transit

Pleasanton, CA — In a major affordable housing victory, Alameda Superior Court Judge Frank Roesch has ruled that the City of Pleasanton's Housing Cap violates state law. In the first ruling of its kind, the court also ordered the city to complete re-zoning that is required by state law so that it can meet its share of the region's affordable housing.

The case, *Urban Habitat v. City of Pleasanton* was brought by nonprofit law firm and advocacy group Public Advocates Inc. on behalf of Pleasanton resident Sandra De Gregorio and regional environmental justice organization Urban Habitat. The decision was released late Friday and has important repercussions across the Bay Area and California for civil rights, the environment and the economy.

Judge Roesch ruled the 29,000-unit Housing Cap unconstitutional because it blocked the City from meeting its share of the Regional Housing Need Allocation (RHNA) under California law. Pleasanton must plan for a share of 3,277 housing units, including 2,524 affordable homes, for the period ending 2014.

The Housing Cap prevented hundreds of the much-needed homes from being built in the city, not just by 2014, but for the indefinite future. Based on these facts, the Court concluded that "[i]t is self-evident that the City cannot comply with the State statute" requiring the City to accommodate its fair share of the region's projected housing need.

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“Pleasanton imports workers to fill thousands of jobs, but excludes those workers and their families from a chance to live in the community,” said Richard A. Marcantonio, managing attorney with Public Advocates Inc.. “Today’s ruling dismantles the exclusionary housing and zoning policies that have harmed not only these families, but Pleasanton and the whole surrounding region.”

Also representing the Plaintiffs are attorneys from Paul, Hastings, Janofsky & Walker LLP and The Public Interest Law Project. California Attorney General Jerry Brown joined the case last summer.

By lifting the City’s de facto moratorium on housing construction, this ruling will create jobs and affordable housing, and reduce greenhouse gas emissions. Juliet Ellis, Urban Habitat’s executive director, noted that 40,000 workers commute to Pleasanton because of the lack of housing near their jobs.

“Pleasanton has the opportunity to allow hundreds of affordable homes within walking distance of a major transit hub,” said Ellis. “We call on the City to show leadership in reducing greenhouse gas emissions while promoting social equity.”

Since the suit was filed in 2006, Pleasanton has identified a number of potential housing sites in Hacienda Business Park, adjacent to the Dublin-Pleasanton BART station. Landowners at these sites have been actively trying to advance plans for mixed-use (residential and commercial), transit-oriented development for more than six years. Last November, the City selected three of these sites for further study.

The Court ruled, however, that this was inadequate, stating that while it “may start a process to cure the City’s failure in this matter ... it is wholly inadequate to

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be considered a cure.” The City had retained discretion to determine whether there was “good cause” to allow development. But the Court ruled that this “discretionary determination ... will inhibit any developer from proposing any residential development.”

Rezoning is necessary to satisfy Pleasanton’s unmet obligations to accommodate affordable housing. In order to comply with California law, Pleasanton had committed to rezone enough land for some 800 units of lower-income housing, and around 40 acres were to have been re-zoned to meet this need by June 2004. Since 1999, however, only 20 homes for very-low income families with children—such as a family of four earning \$40,000—have been built in Pleasanton. Noting that “[t]he City still has not accommodated [the fair share of housing] allocated to it in 2001,” the Court ordered the City to complete that rezoning within 120 days.

"For too long, the Housing Cap has chased would-be residential developers away from Pleasanton, and forced neighboring jurisdictions to shoulder the burden of housing an expanding regional population," said Paul Hastings attorney Christopher Mooney. "The Court today said 'no more' -- Pleasanton must do its part to make affordable housing economically feasible within its borders."

The Court’s ruling does not affect the City’s urban growth boundary, which protects open space from development.

Read the Court’s ruling at <http://tinyurl.com/pleasantondecision31210>. Additional background is available at <http://www.publicadvocates.org>



Public Advocates Inc. is a nonprofit law firm and advocacy organization that challenges the systemic causes of poverty and racial discrimination by strengthening community voices in public policy and achieving tangible legal victories advancing education, housing and transit equity. Public Advocates spurs change through collaboration with grassroots groups representing low-income communities, people of color and immigrants, combined with strategic policy reform, media advocacy and litigation, “making rights real” across California since 1971. <http://www.publicadvocates.org>

Urban Habitat is a Bay Area regional environmental justice organization. It builds bridges among environmentalists, social justice advocates, government leaders, and the business community and promotes affordable housing opportunities for lower-income Bay Area residents. <http://www.urbanhabitat.org>

The California Affordable Housing Law Project, a statewide support center specializing in affordable housing planning, joined Public Advocates as co-counsel in the case. <http://www.pilpca.org/cahlp/>

Paul, Hastings, Janofsky & Walker LLP also joined as co-counsel for Plaintiffs in the case. <http://www.paulhastings.com/>