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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

CALIFORNIA HOUSING DEFENSE FUND; CALIFORNIANS FOR HOMEOWNERSHIP, INC.; YES IN MY BACK YARD; NICHOLAS WEININGER; ELIZABETH SIEGLE; PRODAN STATEV; JEREMY ROBERTS

Petitioners and Plaintiffs,

v.

THE CITY AND COUNTY OF SAN FRANCISCO

Respondent and Defendant.

Case No. _____

VERIFIED PETITION FOR WRIT OF MANDATE
(Code Civ. Proc., § 1085; Gov. Code, §§ 65580 et seq., 65587, 65860, 65852.21, 65852.28, 65912.100 et seq., 65913.4.5, 65915 et seq., 66411.7, and 66499.41; Cal. Const., art. XI, § 7)

COMPLAINT FOR DECLARATORY RELIEF
(Code Civ. Proc., § 1060)

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I. INTRODUCTION

1. In 2023, the City and County of San Francisco ("City," "Respondent," or "San Francisco") adopted a new housing element as part of its general plan. The housing element committed the City to following state housing law and made bold promises that the City would enact new policies to facilitate the production of housing. The City made these promises because, in its own words, "San Francisco has been in a state of affordability crisis in the past couple of decades, a crisis felt by low-, moderate-, and, more recently, middle-income households." (City and County of San Francisco, Sixth Cycle Housing Element ["Housing Element"], available at <https://sfplanning.s3.amazonaws.com/archives/sfhousingelement.org/files/Housing_Element_2022_Update.pdf>, p. 10.) Due to "the importance of increasing the supply of housing to address the affordability crisis," San Francisco set its sights on "providing an abundance of permanently affordable housing … [and] continuing production of market-rate housing for all segments of San Francisco's workforce." (*Id.* at p. 45.)

2. The most important promise in the housing element was a promise to rezone large swaths of the City to allow for greater residential development. (See Housing Element, Appendix B.) Although the housing element did not set the precise contours of this rezoning, but rather provided a range of scenarios, the housing element established firm, non-negotiable standards the rezoning would have to meet. The housing element required the rezoning to provide enough new capacity to produce more than 36,000 new housing units by 2031. (Housing Element, p. 128 [Program 7.1.1].) The housing element also barred the City from imposing new constraints on housing development when it enacted the rezoning. (*Ibid.*)

3. When the deadline to enact this rezoning arrived, however, the City reneged on its promises. The City enacted a zoning plan—the Family Zoning Plan—that fails to provide the promised 36,000 new units by 2031 and that adds substantial new constraints on housing construction. In fact, the Family

Zoning Plan was engineered to *reduce* residential capacity in many parts of the City. (See, e.g., Eskenazi and Yang, *We asked every S.F. politician about the Marina Safeway proposal. Here are their answers.*, Mission Local (Dec. 15, 2025), available at <https://missionlocal.org/2025/12/sf-marina-safeway-government-poll/> [quoting Mayor Daniel Lurie as stating that a proposed development would be illegal after enactment of the Family Zoning Plan because the development included too much housing].)

4. The Family Zoning Plan also tries to preempt state housing laws. The Family Zoning Plan's Housing Choice – San Francisco program purports to prohibit projects that rely on the program from using the Statewide Density Bonus Law or other state housing laws.

5. The City's actions are illegal. They are, furthermore, a betrayal of promises the City made in its housing element—promises to take the City's housing crisis seriously and enact real reforms to address it. Petitioners bring this lawsuit to ensure that San Francisco follows the law and lives up to its stated goal of creating new housing.

II. PARTIES

6. Petitioner and Plaintiff California Housing Defense Fund ("CalHDF") is a California nonprofit public benefit corporation and 501(c)(3) public charity. CalHDF's mission is to promote housing growth and affordability in California through education and legal advocacy. This advocacy includes litigation under state laws that limit local governments' ability to restrict or impair the construction of new housing and housing affordability. CalHDF monitors and reviews local governments' housing element implementation actions for compliance with state law, and to ensure that these actions promote housing production.

7. Petitioner and Plaintiff Californians for Homeownership, Inc. ("CFH") is a California nonprofit public benefit corporation and 501(c)(3) public charity. Its mission is to address California's housing crisis through litigation in support of the production of housing affordable to families at all

income levels.

8. Petitioner and Plaintiff Yes In My Back Yard ("YIMBY") is a 501(c)(3) nonprofit corporation and is the litigation affiliate of YIMBY Action, a 501(c)(4) nonprofit corporation, whose membership cuts across socioeconomic lines, including members with very low, low, moderate, middle, and higher incomes ("YIMBY Members"). YIMBY litigates for housing projects through its project YIMBY Law, whose mission is to end the housing shortage and achieve affordable, sustainable, and equitable housing for all. YIMBY's mission is to increase the accessibility and affordability of housing in California by enforcing state housing laws and by advocating for increased access to housing for households of all income levels, including for YIMBY Members who reside in, or wish to reside in, the City of San Francisco. YIMBY has a direct and substantial interest in ensuring that San Francisco's actions are in conformity with the requirements of law, that those requirements are properly executed, and that San Francisco's legal duties are enforced. YIMBY Members, as well as the general public, will be adversely affected by the acts described herein and are aggrieved by the acts, decisions, and omissions of the City as alleged in this Petition.

9. Petitioner Nicholas Weininger is a natural person and a resident of the State of California and the City and County of San Francisco. Petitioner Nicholas Weininger also owns real property in the City and County of San Francisco. Petitioner Nicholas Weininger is a YIMBY Member.

10. Petitioner Elizabeth Siegle is a natural person and a resident of the State of California and the City and County of San Francisco. Petitioner Elizabeth Siegle also owns real property in the City and County of San Francisco. Petitioner Elizabeth Siegle is a YIMBY Member.

11. Petitioner Prodan Statev is a natural person and a resident of the State of California and the City and County of San Francisco. Petitioner Prodan Statev is a YIMBY Member.

12. Petitioner Jeremy Roberts is a natural person and a resident of the State of California and the City and County of San Francisco. Petitioner Jeremy Roberts is a YIMBY Member.

13. Petitioners and Plaintiffs (collectively "Petitioners") bring this Petition on their own behalf and on behalf of others affected by Respondent's failure to comply with state law.

14. Respondent and Defendant City and County of San Francisco (the "City" or "Respondent") is a municipality in San Francisco County, California. It is the local agency whose decision is challenged by this Petition.

III. JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over the state law claims asserted in this action pursuant to the Code of Civil Procedure sections 1060 and 1085; the California Constitution, Article XI, section 7; and Government Code sections 65580 et seq., 65587, 65860, 65852.21, 65852.28, 65912.100 et seq., 65913.4.5, 65915 et seq., 66411.7, and 66499.41.

16. This Court has personal jurisdiction over Respondent City and County of San Francisco pursuant to the Code of Civil Procedure section 410.10.

17. Venue properly lies with this Court pursuant to the Code of Civil Procedure sections 394 (action against city or local agency may be tried in county where city or local agency is situated) and 395 (action properly lies with Court in the county where defendant resides).

18. Petitioners have no other plain, speedy, and adequate remedy at law.

19. Petitioners have exhausted all available administrative remedies, as alleged below.

IV. FACTUAL ALLEGATIONS

A. The Housing Element Law

20. The statute at the foundation of this case is the Housing Element Law, which is codified at Government Code section 65580 et seq. The Housing Element Law governs the housing element of cities' and counties' general plans.

21. Local governments must update their housing elements at regular intervals, typically every eight years. (Gov. Code, § 65588, subd. (e)(3).) These eight-year periods are referred to as "planning

periods" or "planning cycles."

22. The most recent planning cycle—the sixth cycle since the advent of the Housing Element Law—for San Francisco commenced on January 31, 2023. Accordingly, the City adopted an updated housing element (the "sixth cycle housing element") on January 31, 2023.

1. The Housing Element Law Creates a Two-Step Process: First, the City Adopts a Housing Element; Then, the City Implements Its Adopted Housing Element

23. The Housing Element Law establishes rules that govern the process for adopting a housing element and substantive requirements of the housing element. (See, e.g., Gov. Code, §§ 65583 [substantive requirements]; 65583.2 [substantive requirements]; 65583.3 [procedural requirements]; 65585 [procedural requirements].) The Housing Element Law establishes different rules that govern the process for implementing the programs and policies in an adopted housing element. (See, e.g., Gov. Code, §§ 65583.4 [deadlines and procedures for rezoning the site inventory]; 65584.09 [deadlines and procedures for rezoning sites to accommodate the RHNA from a prior planning period]; 65585 [establishing enforceability of programs and policies in housing element]; see also Gov. Code, § 65860 [zoning ordinances must be consistent with the applicable general plan].)

24. Thus, housing element *adoption* and housing element *implementation* are different processes. When it comes time for a local government to implement the programs, policies, and rezonings in its housing element, there is no room to deviate from the housing element. In other words, if the housing element establishes specific benchmarks a policy program must meet, the local government must adhere to those benchmarks when it implements the program.

2. The Housing Element Law's Site Inventory Requirement

25. The most important substantive requirement the Housing Element Law imposes on housing elements is to compile an inventory of sites within the jurisdiction that can accommodate the jurisdiction's fair share of regional housing needs at different income levels (the "site inventory"). (Gov. Code, § 65583, subd. (a)(3).) A jurisdiction's fair share of regional housing needs is known as its

"Regional Housing Needs Allocation," or "RHNA," pronounced "REE-nuh."

26. The site inventory—especially sites designated as appropriate for low-income housing—must satisfy numerous criteria. Relevant here, low-income sites must be zoned at specific densities and zoned to restrict non-residential uses. (*New Commune DTLA LLC v. City of Redondo Beach* (2025) 115 Cal.App.5th 111, 122.) The housing element must also provide evidence that low-income sites with existing uses can be expected to produce additional development that includes residential units. (Gov. Code, § 65583.2, subd. (g)(1).) In addition, when a jurisdiction relies on nonvacant sites for half or more of the low-income portion of its RHNA, the housing element must provide evidence that the existing uses on the sites will not impede additional residential development. (*Id.* at subd. (g)(2).) The evidence must be strong enough to overcome a presumption that existing uses will impede additional residential development. (*Ibid.*)

27. If a jurisdiction finds that it has sufficient sites to accommodate its RHNA under its current zoning rules, and that the sites' current zoning rules satisfy the Housing Element Law's requirements, then the housing element does not need to include a plan to rezone any sites in the site inventory. (Gov. Code, § 65583, subd. (a)(3).)

28. In practice, however, very few jurisdictions' pre-existing zoned capacity can accommodate their RHNA. Furthermore, in many of the jurisdictions whose pre-existing zoned capacity can accommodate their RHNA, the pre-existing zoning does not satisfy the Housing Element Law's requirements for the site inventory. Thus, most jurisdictions must plan to rezone sites to establish a site inventory that will satisfy the Housing Element Law. (See Gov. Code, § 65583, subd. (c)(1)(A).)

3. <u>The Housing Element Law Imposes Minimum Density Requirements for Lower-Income Sites in the Site Inventory</u>

29. Sites in the site inventory that are designated as appropriate for residential development affordable to lower-income households must be zoned with minimum residential densities. (Gov. Code,

§ 65583.2, subd. (h)(2).)

30. The minimum density required for low-income sites in San Francisco's housing element site inventory is 20 units per acre. (*Ibid.*; see also *id.* at subd. (c)(3)(B)(iv).)

31. Low-income sites that allow for non-residential development (i.e. commercial or industrial development) with no residential component do not satisfy the Housing Element Law's minimum density requirement. (*New Commune*, *supra*, 115 Cal.App.5th at 122.)

32. Low-income sites that preserve zoning compliance for existing residential uses with densities below the minimum density threshold do not satisfy the Housing Element Law's minimum density requirement. (*Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 244.)

4. The Housing Element Law Requires Low-Income Sites in the Site Inventory Be Zoned to Exclude Non-Residential Uses

33. Sites in the site inventory that are designated as appropriate sites for residential development affordable to lower-income households must be zoned exclusively for residential use. (Gov. Code, § 65583.2, subd. (h)(2).) In other words, mixed uses and nonresidential uses must be prohibited on these sites. (*Ibid.*) There is an exception to this rule: "a city or county may accommodate all of the lower income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project." (*Ibid.*)

34. Low-income sites that allow for non-residential development (i.e. commercial or industrial development) with no residential component do not satisfy this requirement of the Housing Element Law. (*New Commune*, *supra*, 115 Cal.App.5th at 122.)

5. The Housing Element Law Requires Detailed Evidence of Residential Development Potential for Nonvacant Sites in the Site Inventory

35. The Housing Element Law has special rules for nonvacant sites. (Gov. Code, § 65583.2, subd. (g).) These rules exist to ensure that housing elements that plan to accommodate some or all of the RHNA

on sites with existing uses can reasonably be expected to meet the RHNA targets and that new housing is reasonably likely to be built notwithstanding the existing uses on the sites. This serves the overall goal of the Housing Element Law, which is "not merely to require identification of sites that could theoretically accommodate housing need, but to encourage development to meet housing needs." (*New Commune*, *supra*, 115 Cal.App.5th at 133.)

36. For all nonvacant sites, a housing element must:

> [S]pecify the additional development potential for each site within the planning period and … provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(Gov. Code, § 65583.2, subd. (g)(1).)

37. If a housing element relies on nonvacant sites to accommodate half or more of its low-income RHNA, an additional, stricter, rule applies. In such cases:

> [T]he methodology used to determine additional development potential shall demonstrate that the existing use [on the site] does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(Gov. Code, § 65583.2, subd. (g)(2).)

6. The Housing Element Law Requires an Analysis of Constraints on Housing Production

38. The Housing Element Law includes special rules regarding governmental constraints on housing production.

39. Government Code section 65583, subdivision (a)(5) reads:

> The housing element shall contain … [a]n analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels … and for persons with disabilities as identified in the analysis pursuant to paragraph

> (7), including land use controls, building codes and their enforcement, site improvements, fees, and other exactions required of developers, local processing and permit procedures, historic preservation practices and policies and an assessment of how existing and proposed historic designations affect the locality's ability to meet its share of the housing need … and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need …

40. A housing element must incorporate the findings of the constraints analysis in the housing element's policies and programs. Specifically, the Housing Element Law requires programs in a housing element to "[a]ddress and … remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities." (Gov. Code, § 65583, subd. (c)(3).)

B. San Francisco's Sixth Cycle Housing Element

41. San Francisco adopted its sixth cycle housing element on January 31, 2023.

42. San Francisco's sixth cycle RHNA totaled 82,069 units, broken down as follows (Housing Element, Appendix B, p. 8):

- 32,881 lower-income units (including very low-income units);
- 13,717 moderate income units; and
- 35,471 above-moderate income units.

43. San Francisco found that it could not accommodate its RHNA under the City's pre-existing zoning. Pre-existing zoning, according to the City, could accommodate only 58,097 new units. (Housing Element, Appendix B, p. 8.)

44. This left a shortfall between the City's RHNA obligation (82,069 units) and its existing zoned residential capacity (58,097 units). The City wrote: "San Francisco does not have enough sites to meet the City's Regional Housing Needs Allocation for 2023-2031 (RHNA)." (Housing Element, Appendix B, p. 23.)

45. Thus, the City was required to rezone sites to satisfy the Housing Element Law's site inventory

requirements. (Gov. Code, § 65583, subd. (c)(1)(A).)

46. The City's sixth cycle housing element therefore planned to rezone large swaths of the City to establish a site inventory that meets state law requirements. (Housing Element, Appendix B, p. 23 et seq.)

47. The sixth cycle housing element did not list specific sites that would be rezoned.

48. The sixth cycle housing element likewise did not commit the City to enacting definite, specific zoning rules for sites in the site inventory.

49. Instead, the sixth cycle housing element took a more complex approach. It established a rezoning program that "include[d] a detailed range of proposed rezoning[s]." (Housing Element, Appendix B, p. 23.) That is, rather than a well-defined rezoning program that planned to enact specific zoning rules on specific, listed sites, San Francisco's sixth cycle housing element included a range of possible options for its rezoning program.

50. Commensurate with this approach, the sixth cycle housing element provided a database of "sites … being considered" for rezoning. (Housing Element, Appendix B, p. 23; see also Housing Element, Appendix B4.)

51. The site list included information on the additional housing capacity that would be added to each site under three possible rezoning proposals. (See Housing Element, Appendix B4; see also Appendix B, pp. 29-35.)

52. The housing element explained that the specifics of the rezoning would be decided later: "While the Rezoning Program includes a detailed range of proposed rezoning elements, it will come as a separate proposal and legislative action after Housing Element adoption, informed and shaped into final form by extensive community outreach and analysis." (Housing Element, Appendix B, p. 23.)

53. Because the housing element did not define its rezoning program by listing specific sites that would receive specific new zoning rules but rather promised a rezoning program whose specifics would be

worked out later, the housing element established numerous and detailed rules the rezoning program would have to follow. This was necessary to ensure the housing element satisfied the Housing Element Law's requirements.

1. San Francisco's Sixth Cycle Housing Element Committed the City to Rezone Based on a Probability-of-Development Analysis

54. Because the rezoning program did not commit the City to rezoning specific parcels at specific densities, the rezoning program had to take other steps to ensure the rezoning would create sufficient zoned capacity to satisfy the RHNA shortfall the City identified in its existing zoned capacity.

55. Furthermore, because San Francisco is a built-up city with relatively few vacant parcels (Housing Element, Appendix B, p. 41), the rezoning program had to account for the fact that over 50 percent of the sites designated as appropriate for low-income housing would be nonvacant (*id.* at p. 3; Gov. Code, § 655832.2, subd. (g)(2)). Thus, the rezoning program had to provide evidence that the existing uses on the sites would not impede additional residential development. (Housing Element, Appendix B2, p.3; Gov. Code, § 655832.2, subd. (g)(2).)

56. San Francisco satisfied these requirements with a two-step strategy.

57. First, the housing element used an analytical model developed by BlueSky Consulting Group to estimate the likelihood that existing sites that allowed housing development would produce new housing without changes to their zoning. (See generally Housing Element, Appendix B2.)

58. Second, the housing element, in Program 7.1.1, committed the City to a "rezoning program [that] shall reasonably account for sites' likelihood of development during the planning period using an analytical model" along the lines of the BlueSky model. (Housing Element, p. 128.)

59. The BlueSky model relied on a very detailed methodology that accounted for numerous variables that affected sites' likelihood of development. (See Housing Element, Appendix B2, p. 6 et seq.) The housing element explained:

> These data were analyzed using a logistic regression model that estimates the likelihood of

development based on several key explanatory variables. Logistic regression is used to model the probability of a discrete, binary outcome (i.e., a parcel develops as multifamily housing or it does not) in which the dependent variable takes on the value of 0 or 1. Explanatory variables include factors that may be correlated with the likelihood that a parcel develops as multifamily housing, including housing prices, construction costs, site specific land use and zoning characteristics, and the "development potential" of individual sites measured as the ratio of potential building size to current size.

(Housing Element, Appendix B2, p. 6.)

60. The BlueSky model was developed through a lengthy and rigorous process. (See generally Housing Element, Appendix B2.) This included testing alternative models and specifications before settling on the final model:

> Several alternative models or specifications were tested in the development of the final model, including models that included measures of stock market performance and local unemployment rates (both in San Francisco and the broader Metropolitan Statistical Area), alternative measures of housing prices and construction costs, and neighborhood designation. In addition, a version of the model was tested using land use designations from the assessor's office; however, these data were found to be both (a) correlated with zoning designations such that including land use in addition to the zoning categories did not add to the explanatory power of the model, and (b) incomplete or missing for many parcels analyzed, resulting in many observations being excluded from the logistic regression.

(*Id.* at pp. 6-7.)

61. The BlueSky model incorporated wide-ranging data sets. The housing element explains:

> In order to conduct this analysis, data for each of the more than 150,000 parcels in San Francisco were collected from Planning and other publicly available sources. For each parcel, information was collected regarding the existing land use, zoning, and the potential for future development (i.e., the ratio of allowable building size to current building size). Where factors have changed over time (for example with respect to zoning) data were collected for each year of the study period. To create the development potential variable, a potential building envelop measure was constructed for each parcel in each of the model years. This variable used information about parcel area, setback requirements, density limits, and maximum allowable building height to construct the measure used in the regression model. Finally, the amount of additional development capacity was calculated by dividing the building envelope by the greater of the square footage of the existing building(s) on the parcel for that year or the land area of the parcel if there were no buildings or the information was missing. In addition, information about housing prices and construction costs were included in the model data set for each of the study years. Specifically, the data included in the analysis consisted of the following:
>
> 1. **Parcel-Specific Data.** Data for every parcel in San Francisco were collected for each year of the study period. This information includes attributes that did not

change over time such as the parcel's land area and neighborhood, as well as characteristics that may have changed, such as the parcel's zoning designation or maximum allowable building height. Archived annual files for zoning, height and bulk districts, planning districts, special use districts, and land use were used to capture the historical annual data for each parcel and account for any changes over time. In addition, Planning provided information on the maximum allowed density, parking requirements, and setback requirements associated with different planning areas and zoning designations over time. Finally, because parcel identifiers may change over time as parcels are combined or divided, Planning also provided a file that recorded parcel identifier changes over time.

2. **Annual Economic Data.** Measures of housing prices and construction costs were also collected and integrated to account for economic changes that would have a direct impact on the San Francisco housing market over time, as well as changes in general economic conditions that may influence the amount of housing developed. Housing prices were measured using a San Francisco housing price index published by Zillow, adjusted for inflation using the San Francisco MSA's CPI; construction costs were measured using the Federal Reserve's real cost index for multifamily residential structures.

3. **Historical Market-Rate Housing Development Data.** Finally, data for market-rate multifamily housing developments completed in San Francisco from 2001 to 2022 were integrated. This list was prepared from Planning's annual Housing Inventory reports. The dataset included the parcel identifier(s) for each project, the year the project was completed, and the number of market-rate and below market-rate (BMR) units for each project.

These data sources were combined to form a single data set for the regression analysis, with one record per year for each of the City's approximately 150,000 parcels over the study period.

(Housing Element, Appendix B2, pp. 7-8.)

62. The promise to shape the housing element rezoning around an analytical model satisfied the Housing Element Law's requirement that San Francisco commit itself to a rezoning that would create sufficient capacity to accommodate the City's RHNA allocation. Policymakers, citizens, and other stakeholders could be assured that San Francisco's housing element rezoning would accommodate the City's RHNA allocation because reliable evidence—an analytical model that accounted for sites' likelihood of development—would show the rezoning's adequacy on this point.

63. The promise to shape the housing element rezoning around an analytical model also satisfied the Housing Element Law's requirement that San Francisco provide evidence that the existing uses on

rezoned sites will not impede additional residential development during the planning period. The City would not, when it rezoned, guarantee that any *particular* nonvacant site was likely to see its existing use redeveloped into housing. But the City would, using an analytical model, provide a realistic estimate of the likelihood that each nonvacant rezoned site would be redeveloped into housing. That likelihood would then be used to calculate the number of new housing units the site could be expected, as a matter of probabilities, to produce during the sixth cycle (i.e. before 2031).[1] The housing element promised that the sum of these expected new housing units across all rezoned sites would meet or exceed the City's RHNA allocation.

64. In fact, the housing element promised the sum of these expected new housing units across all rezoned sites would equal or exceed 36,282 housing units during the planning period. (Housing Element, p. 159.)

2. San Francisco's Sixth Cycle Housing Element Committed the City to Refrain from Adding New Rules to Its Rezoning That Would Constrain Housing Production

65. Because the housing element's rezoning program did not commit the City to a specific rezoning strategy that spelled out the parcels to be rezoned and the zoning rules that would apply to those parcels, the rezoning program had to take other steps to ensure the rezoning would incorporate the housing element's analysis of governmental constraints on new housing production. (Gov. Code, § 65583, subd. (c)(3).)

66. The housing element adopted a simple strategy for this: it barred the rezoning program from imposing new constraints on housing production.

67. Program 7.1.1 in the housing element states: "The rezoning program … shall not add government

[1] So, for example, if a nonvacant site had a five percent chance of seeing its existing use redeveloped into housing, and, conditional on such a redevelopment, the site could be expected to produce 20 new housing units, that site would be expected, as a matter of probabilities, to produce five percent of 20 new housing units, or one new housing unit, and would be credited with one housing unit for the purpose of the rezoning's capacity calculations.

constraints that reduce project financial feasibility as determined by an analysis prior to the rezoning enactment." (Housing Element, p. 128.)

68. Program 8.1.6 in the housing element separately states:

> [A]ny City-adopted rezoning or development controls shall not impose any new governmental constraints to the development of housing unless those increased constraints are offset by the removal or reduction of other constraints. A "new governmental constraint" is a city-imposed requirement, including but not limited to process, fees, or design, that increases the cost of development not in effect on January 31, 2023.

(Housing Element, p. 134.)

3. San Francisco's Sixth Cycle Housing Element Acknowledged the Requirement that the City's Rezoning Program Comply with the Minimum Density Requirement and Restrictions on Non-Residential Use in the Housing Element Law

69. The City's housing element acknowledges that its rezoning program must adhere to density requirements and restrictions on non-residential use for sites identified as appropriate for lower income housing.

70. The City's housing element commits the City to rezoning in a manner that satisfies these requirements and restrictions.

71. The housing element states:

> As established in the statute, per above, sites identified to meet the lower-income RHNA need have distinct requirements. In particular, these sites (identified in Appendix 4 for each of the three Rezoning Program scenarios) must be zoned to permit code compliant multi-family use through a by-right planning process for 20% lower-income affordable housing and be zoned with a minimum density and development standards that permit at least 30 units per acre and 16 units per development site. As described further below, of the identified lower-income sites for rezoning virtually all are located on sites that both permit 100% residential use and limit principally permitted non-residential uses to small amounts, meeting the state requirements to locate more than 50% of Lower Income units on sites that are unlikely to be developed with primarily non-residential uses.

(Housing Element, Appendix B, pp. 24-25.)

4. HCD Certified the City's Housing Element Based on the Housing Element's Commitments for the Rezoning Program

72. The California Department of Housing and Community Development ("HCD") is the state agency

charged with reviewing local jurisdictions' housing elements and assessing their compliance with the Housing Element Law. (See Gov. Code, § 65585; see generally Gov. Code, § 65580 et seq. [establishing numerous roles for HCD in the housing element drafting, review, and adoption process].)

73. After San Francisco adopted its sixth cycle housing element on January 31, 2023, and on the same day, the City submitted a copy of the adopted housing element to HCD for review.

74. HCD sent a letter to the City summarizing the results of its review the next day, February 1, 2023.

75. HCD's letter stated that the City's housing element was "in full compliance with State Housing Element Law." (HCD, Letter to Rich Hillis, Feb. 1, 2023, available at <https://hcdpowerbi.blob.core.windows.net/housing-elements/SfoSanFranciscoAdoptedIn020123.pdf>.)

76. HCD's letter also stated that the Department's finding of compliance relied on the inclusion of specific programs in the City's housing element, including Program 7.1.1 (the commitment to rely on an analytical model that accounted for sites' likelihood of development in the City's rezoning program, and the commitment to refrain from adding new governmental constraints on the production of housing as part of the City's rezoning program) and actions under Program 8 (which includes Program 8.1.6, a commitment to refrain from imposing new governmental constraints on housing production).

77. Regarding the housing element's rezoning plans, HCD's letter stated:

> The element includes programs that commit to accommodating the City's regional housing needs allocation (RHNA) of 82,069 units, including a shortfall of 32,282 [sic] units, through existing pipeline projects, development agreements, and rezoning by monitoring production, providing incentives to developers, and facilitating development through zoning and land use changes, among other actions. These programs include but are not limited to Programs 7.1-7.3, and actions under Program 8, notably Programs 8.1.5, 8.1.10, and 8.7. …
>
> The City has proposed various scenarios in the element to implement its rezoning efforts.

> In addition, HCD is aware that the City is considering other strategies such as adopting Housing Sustainable Districts (HSD). Please note that these approaches or other ordinances do not substitute the City's obligation to complete its rezone program. As stated in HCD's prior reviews, as the City begins implementation of these rezoning efforts, the City should adopt the most aggressive rezoning strategies to ensure that adequate sites are available throughout the planning period, especially for lower- and moderate-income households. For your information, HCD found that the City's proposed rezoning approaches addressed the City's requirement to demonstrate adequate sites to accommodate the RHNA and assisted in fulfilling the City's AFFH obligations. Any changes, modifications, or lesser approaches to rezoning can jeopardize the City's ability to meet both these requirements, also triggering an immediate review of the housing element for compliance with State Housing Element Law.

(HCD, Letter to Rich Hillis, Feb. 1, 2023, p. 2.)

78. HCD's letter also stated that the Department's finding of compliance relied on the City's commitments to fulfill the programs in its housing element, and that if the City did not fulfill those commitments, it risked falling out of compliance with the Housing Element Law.

79. The letter stated:

> [T]he City must continue timely and effective implementation of all programs, including but not limited to 1) addressing and removing constraints to housing development 2) rezoning and making available adequate sites to accommodate the regional housing needs allocation (RHNA) and 3) fostering equitable communities. HCD will be closely monitoring the City's housing element implementation efforts throughout the planning period including key milestones, deadlines, and annually for compliance with housing element law.

(HCD, Letter to Rich Hillis, Feb. 1, 2023, p. 1.)

80. The City and County of San Francisco contends that its housing element, adopted January 31, 2025, complies with the Housing Element Law.

C. San Francisco Implemented the Rezoning Commitment in Its Housing Element Via the Family Zoning Plan

81. After San Francisco adopted its sixth cycle housing element on January 31, 2023, the City turned to the task of implementing the programs in its housing element. The largest and most important of these programs was the rezoning.

82. The City implemented its sixth cycle housing element rezoning in part by enacting a slate of

ordinances collectively referred to as the "Family Zoning Plan" or "FZP."

83. The City enacted the FZP on December 9, 2025.

D. San Francisco's Family Zoning Plan Fails to Satisfy Commitments in the City's Housing Element

1. The Family Zoning Plan Does Not Provide Sufficient Residential Capacity as Measured by an Analytical Model of the Type the City Committed Itself to in Its Housing Element

84. The FZP does not comply with Program 7.1.1 of the City's housing element.

85. Program 7.1.1 of the City's housing element, as detailed above, in Sections IV.B.1 through IV.B.4 of this Petition, requires San Francisco to implement a rezoning program that will produce 36,282 new units over the course of the current planning period. Program 7.1.1 further requires the City to rezone based on "an analytical model" that "reasonably account[s] for sites' likelihood of development during the planning period." (Housing Element, p. 159.)

86. The City did not produce an analytical model that reasonably accounted for sites' likelihood of development during the planning period when the City enacted the FZP.

87. The City relied on three methods to calculate the number of units the FZP could be expected to produce over the planning period. None of these methods, however, is an analytical model that satisfies Program 7.1.1 of the housing element.

88. **The first method is the "soft sites" method.** This method assumes that a site currently hosting a residential use has a two percent probability of being redeveloped with the rezoning's planned residential capacity and a site currently hosting a non-residential use has a seventy percent probability of redevelopment.

89. The soft sites method is not an analytical model that reasonably accounts for sites' likelihood of development. That is because the soft sites method is based on no analysis and is not a model at all. The soft sites method applies uniform probability assumptions to thousands of unique and varied parcels across the City to calculate the number of units that will be built.

90. The soft sites method's uniform probability assumptions for sites' likelihood of development are not reasonable because they are based on no evidence at all. No evidence supports the soft sites method's assumptions that sites currently hosting a residential use have a two percent probability of redevelopment and that sites currently hosting a non-residential use have a seventy percent probability of redevelopment during the planning cycle. These assumptions, furthermore, are likely far too high.

91. Furthermore, the FZP adds new zoning classifications under which (according to the City) housing projects cannot take advantage of state laws that allow extra density. (These "state-law exclusion zones" are discussed in detail later in this Petition, in Sections IV.E, IV.G, and IV.H.) The soft sites method fails to account for this change when comparing sites' pre-existing residential redevelopment potential to their post-FZP residential redevelopment potential.

92. For these reasons, the soft sites method is not a reasonable analytical model.

93. **The second method is an economic model developed by a consultant.** This method calculates how many units of housing are financially feasible on parcels throughout the City. From there, the second method assumes that two percent of sites with economically feasible new housing developments currently occupied by residential uses and thirty-five percent of other sites with economically feasible new housing developments will be developed.

94. The second method is not an analytical model that reasonably accounts for sites' likelihood of development. That is because the number of units of housing that are financially feasible on a parcel is different from the number of units that are likely to be built during the planning period, and the City's attempt to extrapolate from financial feasibility to an expected number of new housing units makes no attempt to reasonably accounts for each site's likelihood of development but rather applies—as with the soft sites method—uniform assumptions to thousands of unique and varied parcels across San Francisco.

95. The second method also fails to ground its assumptions and calculations on reliable data—or indeed, any data at all—about the rate at which parcels with given characteristics are redeveloped to produce new housing.

96. For these reasons, the second method is not a reasonable analytical model.

97. Finally, the second method calculates that the FZP will produce only 19,000 new units of housing during the planning period—well short of the 36,282 units the City is required to provide. Thus, even if the second method constitutes an adequate analytical model, the FZP falls short of what the City was required to do for its rezoning program.

98. **The third method involves looking at how much of the City's overall zoning capacity has been built out over the years.** From there, the third method extrapolates a number of new units that can be expected from the FZP.

99. The third method, too, is not an analytical model. It simply takes past housing production numbers and projects them out to the future. It does not account for specific sites' likelihood of development.

100. The third method suffers five additional flaws.

101. **First,** much of San Francisco's increase in zoned capacity prior to the FZP, and much of the new housing that has been built under that zoning, took place on sites that were vacant or had low-value non-residential uses, whereas the FZP covers a broad swath of the City and comprises mostly non-vacant sites, including many sites with existing residential uses.

102. This is a problem for the third method because vacant sites are much more likely to develop than nonvacant sites. Consequently, past housing production on vacant sites cannot be used to project future housing production on nonvacant sites rezoned by the FZP.

103. Recall that the Housing Element Law requires housing elements to specifically assess nonvacant sites' likelihood of development during the planning period. (See Section IV.A.5, *supra*.) Recall, further, that San Francisco's housing element complied with this requirement by committing the City

to rezone based on an analytical model that assessed sites' likelihood of development—including nonvacant sites' likelihood of development. (See Section IV.B.1, *supra*.) Thus, to the extent the City relies on the third method to show the adequacy of its rezoning program, the City is failing to fulfill this requirement of the Housing Element Law.

104. **Second,** prior to the FZP, many residential projects in the City were developed at densities greater than what the zoning for the site allowed. (Housing Element, Appendix B, p. 42 ["In recent years, increasing use of State Density Bonus and other local bonus programs has resulted in the average project being built to greater than 100% of the zoned capacity."]) This is because these projects could take advantage of state laws that grant residential projects extra density if they satisfy certain requirements. (See, e.g., Gov. Code, § 65915 et seq. [Statewide Density Bonus Law].)

105. The FZP, however, adds new zoning classifications under which (according to the City) housing projects cannot take advantage of state laws that allow extra density. (These "state-law exclusion zones" are discussed in detail later in this Petition, in Sections IV.E, IV.G, and IV.H.)

106. Thus, zoned capacity for a parcel prior to the FZP was, in effect, the local zoning *plus* state bonuses, whereas the zoned capacity for many of the same parcels after the FZP is (according to the City) just the local zoning.

107. Because of this change—from allowing state law residential density bonuses everywhere in the City to allowing them only in some zoning designations—it is not reasonable to expect that the share of the City's local zoned capacity that has developed into new housing in the past will provide accurate predictions about the share of the City's local zoned capacity that will develop into new housing after the FZP has gone into effect.

108. **Third,** the third method relies on unrealistically low estimates of the City's zoned capacity prior to the FZP. For example, the City excludes sites where projects have been proposed but not developed from its estimate of its prior capacity. By understating how much capacity it had available

historically, the City produces calculations suggesting a higher share of the City's zoned capacity developed into new housing units than actually did.

109. **Fourth,** the third method counts residential projects constructed pursuant to development agreements in calculating the share of zoned capacity that was developed into new housing in prior years. This is a problem because projects built under development agreements often do not conform to zoning rules; thus, counting such projects towards the share of zoning capacity that results in new housing produces artificially inflated estimates.

110. **Fifth,** the third method relies on historical data from a period before San Francisco enacted numerous new constraints on residential development, including substantially increased real estate transfer tax rates. Thus, the data relied on by the third method overestimates the amount of residential development that can reasonably be expected in today's environment.

111. For these reasons, the third method is not a reasonable analytical model.

112. **What is worse, an analytical model of the type that would satisfy Program 7.1.1 unambiguously shows that the FZP will produce far less new housing than the housing element requires. This analytical model was produced and endorsed by Respondent: according to the City itself, the FZP is inadequate when assessed using an analytical model.**

113. On October 29, 2025, the Office of the Controller for the City and County of San Francisco released a report on the FZP. A copy of that report can be found in **Exhibit D** of this Petition.

114. The report estimated how much new residential development the FZP could be expected to produce.

115. The report used an analytical model.

116. The analytical model relied on by the report was an updated version of the model produced by BlueSky Consulting Group described in paragraphs 57-64, above.

117. The report described the model it relied on as follows:

- The housing development model is a two-stage step model. The first stage is a logistic

regression, covering every parcel in the city, except those subject to a development agreement, over the 2004-2024 period.

- The dependent variable of the logistic regression is 1 if the parcel produced housing in a given year, and 0 otherwise. Parcels that produce housing in a given year were removed from the dataset for subsequent years. Independent variables, reflecting existing land use, market conditions, and zoning, are listed on the next page.
- The second stage is a regression model including all parcels that produced multifamily housing with more than 10 units, over the 2004-24 period. The dependent variable is the number of units produced on the parcel, and the independent variables are the parcel's "building envelope" (its area multiplied by its allowable height), and two interaction variables: the building envelope times a dummy indicating if the parcel was eligible for the State Density Bonus in that year, and the building envelope times a dummy indicating if the parcel was subject to density-restricted zoning in that year. The intercept of the model was fixed at zero.
- The models' coefficients were used in a forecast that calculated the log-likelihood of development for each rezoned parcel, in each of the forecast years 2026-2045, using the site and zoning information, and the price and cost assumptions for each year (shown on the next page). The log-likelihoods were converted into annual probabilities, from which a 20-year probability of development was calculated.
- The model coefficients were also used to calculate a units estimate; the 20-year probability times the units estimate is the expected number of units produced on that parcel in the 20-year forecast period.
- The forecast model was run for both the current and the proposed zoning.

(Exhibit D, pp. 35-36.)

118. In short, the Office of the Controller, according to the report, "refined a statistical model that it has used since 2016 to estimate the impact of policy changes on housing production in the city." (Exhibit D, p. 16.)

119. The report found that the analytical model it relied on showed "the [FZP] would lead to 8,504 and 14,646 additional housing units,[2] beyond what would be produced under current zoning, over the next 20 years." (Exhibit D, p. 25.)

120. Thus, an analytical model shows that the FZP would produce, at best, a little under 14,646 new housing units in the next twenty years—far short of the 36,282 units the City's rezoning program is

[2] *Editor's Note:* The lower projection corresponds to a scenario where housing prices in San Francisco do not increase substantially, and the higher projection corresponds to a scenario where housing prices in San Francisco increase substantially.

required to produce between now and the end of the planning period in 2031.

121. The report, in addition, found that new housing lowers rents across the City, underscoring the importance of building new housing in San Francisco, an expensive and wealthy jurisdiction. (Exhibit D, p. 31.)

122. The report also stated: "If … the 36,000 unit target was achieved, as a result of the rezoning, the economic impact on the city would likely be significantly more positive than the estimates in this report." (Exhibit D, p. 32.)

2. The Family Zoning Plan Ignores the Housing Element's Commitment to Provide Evidence of Nonvacant Sites' Development Potential

123. The FZP fails to comply with Program 7.1.1 in the City's housing element on an additional and separate point.

124. Program 7.1.1, as detailed above, required the City to enact a rezoning program that would "reasonably account for sites' likelihood of development during the planning period using an analytical model." (Housing Element, p. 159.)

125. This was necessary to comply with the Housing Element Law's requirement that housing elements provide a site inventory sufficient to accommodate the jurisdiction's housing need.

126. This was also necessary to comply with the Housing Element Law's requirement, found in Government Code section 65583.2(g), that the City provide evidence and analysis showing that existing uses on nonvacant sites in the housing element's site inventory would not impede additional residential development during the planning period. (See Section IV.A.5, *supra*.)

127. The FZP did not, however, use an analytical model. (See Section IV.D.1, *supra*.)

128. Thus, the FZP fails to satisfy the Housing Element Law's requirement to provide evidence regarding the discontinuance of existing uses on nonvacant sites in the housing element's site inventory.

3. The Family Zoning Plan Does Not Satisfy the Housing Element Law's Requirements Regarding

Minimum Density and Exclusion of Non-Residential Uses on Low-Income Sites

129. The FZP does not comply with the Housing Element Law's minimum density requirements and restrictions on non-residential use for sites designated as appropriate for low-income housing by the housing element.

130. The City's housing element committed the City to a rezoning program that obeyed the Housing Element Law's minimum density requirements and restrictions on non-residential use for low-income sites. (See Section IV.B.3, *supra*.)

131. Some sites rezoned under the FZP and designated as appropriate for low-income housing in San Francisco's sixth cycle housing element are zoned to allow underlying and pre-existing non-residential uses.

132. Upon information and belief, the sites rezoned under the FZP and designated as appropriate for low-income housing that allow underlying and pre-existing non-residential uses account for at least 50 percent of the City's lower-income housing need.

133. Some sites rezoned under the FZP and designated as appropriate for low-income housing in San Francisco's sixth cycle housing element are zoned to allow underlying and pre-existing residential uses at lower densities than the Housing Element Law's minimum density requirement of 20 dwelling units per acre. (Gov. Code, § 65583.2, subd. (h)(2).)

134. The FZP, and San Francisco's zoning more broadly, do not ensure that San Francisco's low-income housing need is accommodated "on sites designated for mixed use [that] allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project." (Gov. Code, § 65583.2, subd. (h)(2).)

135. Thus, the FZP does not comply with the Housing Element Law's minimum density requirements and restrictions on non-residential use for low-income sites.

136. Likewise, the FZP does not comply with commitments in San Francisco's housing element that

bound the City to comply with the Housing Element Law's minimum density requirements and restrictions on non-residential use for low-income sites.

4. The Family Zoning Plan Includes New Constraints on Housing Production, in Violation of the City's Housing Element

137. The FZP does not comply with an additional and separate requirement of Program 7.1.1 of the City's housing element.

138. The FZP also fails to comply with Program 8.1.6 of the City's housing element.

139. Programs 7.1.1 and 8.1.6 of the City's housing element, as detailed above, in Section IV.B.2, bar San Francisco from enacting a rezoning program that imposed new constraints on housing production.

140. The FZP, however, includes many new constraints on housing production. These constraints are listed in the following paragraphs.

141. The FZP requires new minimum office densities for many projects.

142. These minimum office densities were not analyzed as a constraint on housing production in the City's housing element.

143. The FZP establishes new caps on dwelling unit size for many projects.

144. These dwelling unit size caps were not analyzed as a constraint on housing production in the City's housing element.

145. The FZP establishes new limits on curb cuts for many projects.

146. These limits on curb cuts were not analyzed as a constraint on housing production in the City's housing element.

147. The FZP establishes new, lower, parking maximums for many projects.

148. These parking maximums were not analyzed as a constraint on housing production in the City's housing element.

149. The Housing Choice – San Francisco component of the FZP imposes new limitations on residential

projects' eligibility for protections and benefits under state laws, including the Statewide Density Bonus Law. (See Sections IV.E, IV.G, and IV.H, *infra*.)

150. These limits on state law protections and benefits were not analyzed as a constraint on housing production in the City's housing element.

151. Thus, the FZP does not comply with Programs 7.1.1 and 8.1.6 of the City's housing element.

E. The Housing Choice – San Francisco Program, a Key Component of the Family Zoning Plan, Is Not a Rezoning as Required by the Housing Element Law and Promised by the City's Housing Element

152. A significant component of the FZP is the Housing Choice – San Francisco ("HCSF") program.

153. Most of the residential zoning capacity established by the FZP is established by the HCSF program.

154. In the City's assessments of how much new residential zoning capacity the FZP creates, the HCSF program accounts for a majority of that capacity.

155. The HCSF program, as the City describes it, is "a local bonus program" that will "incent housing development." (City and County of San Francisco, Ordinance No. 245-25, amended in Committee 12/1/2025, available at <https://sfgov.legistar.com/View.ashx?M=F&ID=15031708&GUID=17CB5650-66F2-4C0C-BD85-CBD52393AD7B>, p. 1.)

156. The HCSF program has two components: (1) "a local residential bonus program," and (2) "a Housing Sustainability District." (City and County of San Francisco, Ordinance No. 245-25, amended in Committee 12/1/2025, p. 7.)

157. The HCSF program's incentives apply on parcels located in the R-4 zoning district. (San Francisco Planning Code, § 206.10(b)(3).)

158. The HCSF program's incentives apply only to projects that comply with objective standards of the local zoning code, except as those standards are modified by local incentive programs. (San Francisco Planning Code, § 206.10(B)(6).)

159. The HCSF program is not a rezoning. It is, rather, an incentive-based program that allows residential developers to exceed certain limitations imposed by zoning in certain cases.

160. Because the HCSF program is an incentive-based policy and not a rezoning, it does not satisfy the housing element's requirement for the City to rezone to add new residential capacity.

161. The HCSF's reliance on a Housing Sustainability District to increase the City's residential development potential also means that the HCSF is not a rezoning program. This is because the creation of a Housing Sustainability District is not the same as a rezoning.

162. When HCD certified the City's sixth cycle housing element as compliant with the Housing Element Law, HCD warned the City: "HCD is aware that the City is considering other strategies such as adopting Housing Sustainable Districts (HSD). Please note that these approaches or other ordinances do not substitute the City's obligation to complete its rezone program." (HCD, Letter to Rich Hillis, Feb. 1, 2023, p. 2.)

163. Thus, the HCSF program is insufficient to satisfy the housing element's requirement to rezone in accordance with the Housing Element Law.

164. The FZP, without the HCSF program, fails to create sufficient additional residential capacity to produce 36,282 new housing units during the current planning period, as promised by the City's housing element.

165. Thus, the FZP failed to fulfill the City's commitment, in its sixth cycle housing element, to rezone to add additional residential capacity.

F. San Francisco's Family Zoning Plan Leaves the City's Zoning Inconsistent with Its General Plan

166. A jurisdiction's zoning ordinances must be consistent with its general plan. (Gov. Code, § 65860, subd. (a).)

167. For the reasons described in Sections IV.A through IV.E, above, the FZP fails to align San Francisco's zoning code with the housing element of the City's general plan.

168. This results in an inconsistency between San Francisco's general plan and zoning code that violates Government Code section 65860.

G. The Housing Choice – San Francisco Program Violates Other State Housing Laws, in Addition to the Housing Element Law

169. The Housing Choice – San Francisco program purports to exempt itself from various state laws.

170. Specifically, the HCSF program adds section 206.10(b)(5) to the City's Planning Code. That section reads:

> An HC-SF Project under this Section 206.10 shall be a project that … does not receive any density or development bonuses or relief from applicable Planning Code standards in any other State … law or program, including but not limited to California Government Code Sections 65915 et seq., Government Code sections 65912.113(e), 65912.114(f)(1), 65912.123(b), (c), (d), (e), (i), (j)(1), and (j)(3) and 65912.124(f), and Sections 65852.28(b)(2), 65913.4.5, and 66499.41, as may be updated from time to time …

171. This code section violates the law and is unenforceable.

172. The California Constitution bars local governments from enforcing rules that conflict with state law. (Cal. Const., art. XI, § 7.) Local governments, including San Francisco, "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties, Inc. v. City of Half Moon Bay* (2006) 142 Cal.App.4th 572, 595.)

173. In addition, just as the City cannot waive state law's application, project applicants cannot waive protections to which they are entitled under state law, since those protections are designed to serve the public interest. (See Civ. Code, § 3513 ["a law established for a public reason cannot be contravened by a private agreement"].)

1. <u>The Housing Choice – San Francisco Program Illegally Seeks to Evade the State Density Bonus Law</u>

174. As enacted, the HCSF program purports to prevent any project that relies on the program from invoking any benefits or protections under the Statewide Density Bonus Law ("SDBL"), codified at Government Code section 65915 et seq.

175. The SDBL is one of the most important statutes in California housing law. As its name implies, the SDBL encourages the creation of affordable housing by granting "bonus" residential units—units that exceed the allowable residential density under local zoning rules—to residential developments that include affordable units. (Gov. Code, § 65915, subd. (b).) The size of the density bonus depends on the number and income levels of the affordable units: more affordable units and affordable units targeted to lower income levels correspond to larger density bonuses. (See *id.* at subds. (f), (g).) Projects eligible for the SDBL are also entitled to waivers from local zoning standards and concessions and incentives that ease the burden of local zoning standards. (*Id.* at subds. (d), (e).)

176. The SDBL is especially important in San Francisco. HCD has found that the SDBL is "critical" for developers navigating San Francisco's complex zoning rules and extensive procedural hurdles. (See "Examining Local Law, Policy, and Planning Practice on Development in San Francisco Using CALES," O'Neill et al., available at <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/plan-report/ucb-examining-local-law-policy-planning-practice-on-development-in-sf-using-cales.pdf>, pp. 38-39.)

177. In some cases, HCD has issued Notices of Violation to San Francisco for impeding housing development by refusing to grant bonuses, incentives, and waivers allowed by the SDBL. (See, e.g., California Department of Housing and Community Development, Letter to Kate Conner, December 29, 2022, available at < https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/san-francisco-NOV-122922.pdf>.)

178. In light of all this, San Francisco's choice to frame the HCSF to try to prevent housing developers from using the SDBL significantly impedes the production of new housing that the City both desperately needs and promised to facilitate in its sixth cycle housing element.

179. The HCSF program's attempt to avoid the SDBL is illegal on at least two points.

180. First, state law preempts local law, and local governments cannot attempt to evade the application of state law. (See Cal. Const., art. XI, § 7; *Ailanto*, *supra*, 142 Cal.App.4th at 595.)

181. Second, the SDBL provides explicit guidelines for local bonus programs. The SDBL states: "nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section." (Gov. Code, § 65915, subd. (n).) By negative implication, local governments are forbidden from offering density bonuses that do not incorporate, at minimum, the bonuses allowed by the SDBL.

182. The SDBL also states: "In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter." (Gov. Code, § 65917.)

183. Thus, the HCSF program violates the SDBL.

2. The Housing Choice – San Francisco Program Violates the Affordable Housing and High Road Jobs Act of 2022

184. As enacted, the HCSF program purports to prevent any project that relies on the program from invoking any benefits or protections under the Affordable Housing and High Road Jobs Act of 2022 ("AB 2011"), codified at Government Code section 65912.100 et seq.

185. AB 2011 creates a ministerial, by-right approval process for affordable housing on commercially zoned land. AB 2011 allows eligible projects to exceed local zoning standards in some circumstances.

186. The HCSF program's attempt to avoid the application of AB 2011 is illegal because state law preempts local law. (See Cal. Const., art. XI, § 7; *Ailanto*, *supra*, 142 Cal.App.4th at 595.)

3. The Housing Choice – San Francisco Program Violates Senate Bill No. 9

187. As enacted, the HCSF program purports to prevent any project that relies on the program from invoking any benefits or protections under Senate Bill No. 9 ("SB 9"), enacted in 2021 and codified

at Government Code sections 65852.21 and 66411.7.

188. SB 9 creates a ministerial, by-right approval process for splitting a lot zoned for single-family residential use into two lots and a related ministerial, by-right approval process for constructing two-unit housing development projects on such lots.

189. The HCSF program's attempt to avoid the application of SB 9 is illegal because state law preempts local law. (See Cal. Const., art. XI, § 7; *Ailanto*, *supra*, 142 Cal.App.4th at 595.)

4. The Housing Choice – San Francisco Program Violates Senate Bill No. 684

190. As enacted, the HCSF program purports to prevent any project that relies on the program from invoking any benefits or protections under Senate Bill No. 684 ("SB 684"), enacted in 2021 and codified at Government Code sections 65852.28, 65913.4.5, and 66499.41.

191. SB 684 creates a ministerial, by-right approval process for housing development projects and subdivisions that will create ten or fewer units and that satisfy certain criteria.

192. The HCSF program's attempt to avoid the application of SB 684 is illegal because state law preempts local law. (See Cal. Const., art. XI, § 7; *Ailanto*, *supra*, 142 Cal.App.4th at 595.)

5. The Housing Choice – San Francisco Program Violates the Housing Element Law

193. The HCSF program violates the Housing Element Law (Gov. Code, § 65580 et seq.).

194. Rezoning programs enacted pursuant to a housing element, such as the proposed FZP and its component HCSF program, may not exempt themselves from state law's application. Doing so violates the letter and structure of, and the intent behind, the Housing Element Law.

195. In particular, rezoning programs enacted pursuant to a housing element may not evade application of the SDBL.

196. The Housing Accountability Act states that "housing development projects proposed on a [low-income] site" in the housing element's planned rezoning "shall be subject to … subparagraphs (A), (B), and (D) of paragraph (6)" of subdivision (f). (Gov. Code, § 65589.5, subd. (f)(8).)

197. In turn, subparagraph (B) of paragraph (6) of subdivision (f) of the Housing Accountability Act states: "a local agency shall not apply any … standards, conditions, and policies … that … [P]reclude a project that meets [local objective standards] *as modified by any density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to*" the SDBL. (Gov. Code, § 65589.5, subd. (f)(6)(B) [emphasis added].)

198. Thus, housing development projects proposed on sites that are rezoned and designated as appropriate for low-income housing pursuant to a jurisdiction's housing element are explicitly guaranteed the right to use the SDBL.

6. The Housing Choice – San Francisco Program Violates Other State Housing Laws

199. To the extent the HCSF program purports to bar residential projects from relying on other state housing laws beyond the ones listed above, the HCSF program violates the law. Local governments cannot attempt to evade the application of state law. (See Cal. Const., art. XI, § 7; *Ailanto*, *supra*, 142 Cal.App.4th at 595.)

H. The City Has Put Itself in a Bind with the Housing Choice – San Francisco Program: If the Program Is a Valid Rezoning, Then State Bonus Laws Apply, but If the Program Is Not a Valid Rezoning, Then the City Has Not Met Its Housing Element Obligations

200. The City must choose between two options. Option one: the HCSF program is a rezoning that satisfies the requirements of the City's housing element and the Housing Element Law. Option two: the HCSF program is not a rezoning program that satisfies the requirements of the City's housing element and the Housing Element law.

201. If the City chooses option one, then the HCSF program cannot operate simply as a "bonus" or "incentive" program—it must be treated as establishing new zoning rules for the parcels it applies to. In this scenario, the SDBL and other state laws must apply to residential projects that use the HCSF's new zoning rules. (See Gov. Code, § 65915, subd. (o)(6) ["'Maximum allowable residential density' or 'base density' means the greatest number of units allowed under the zoning ordinance,

specific plan, or land use element of the general plan, or, if a range of density is permitted, means the greatest number of units allowed by the specific zoning range, specific plan, or land use element of the general plan applicable to the project."].) Consequently, the HCSF's provision purporting to prevent residential projects from taking advantage of state laws is unenforceable and must be struck down.

202. If, on the other hand, the City chooses option two, then the City has not satisfied the obligations in its housing element or the requirements of the Housing Element Law, and the City is therefore out of compliance with the Housing Element Law.

203. Whatever the City chooses, writ relief is necessary to correct the City's legal violation.

I. Petitioners Informed San Francisco of Legal Issues with the Family Zoning Plan Prior to Its Enactment

204. The Family Zoning Plan has numerous legal shortcomings, as detailed in this Petition.

205. Petitioners monitored the City through its process of developing and enacting the FZP. Petitioners noticed the FZP's legal shortcomings and submitted public comments flagging those shortcomings to the City, the Board of Supervisors, and the Land Use and Transportation Committee of the Board of Supervisors.

206. Petitioner YIMBY, on behalf of itself and YIMBY Members, engaged with the City regarding the FZP's shortcomings during the adoption process for the FZP.

207. YIMBY submitted a letter to both HCD and the City on January 30, 2024. A true and accurate copy of that letter is attached to this Petition as **Exhibit A**.

208. The January 30, 2024 letter detailed legal shortcomings in a memorandum issued by SF Planning that elucidated the City's rezoning plans, which would eventually become the FZP.

209. YIMBY submitted a letter to the City on September 11, 2025. A true and accurate copy of that letter is attached to this Petition as **Exhibit B**.

210. The September 11 letter detailed the FZP's legal shortcomings and outlined the City's legal duties

under its housing element and state law.

211. YIMBY submitted a letter to both HCD and the City on October 29, 2025. A true and accurate copy of that letter is attached to this Petition as **Exhibit C**.

212. The October 29 letter detailed the FZP's legal shortcomings and outlined the City's legal duties under its housing element and state law.

213. In addition, YIMBY met with City officials numerous times throughout the process of the FZP's drafting and adoption. At these meetings, YIMBY explained its legal concerns regarding the then-proposed FZP and urged the City to address those concerns. YIMBY met with City officials on the following dates, among others: April 24, 2024; January 17, 2025; March 27, 2025; March 31, 2025; August 7, 2025; and September 26, 2025.

214. Petitioner CalHDF submitted a letter to the City on October 29, 2025. A true and accurate copy of that letter is attached to this Petition as **Exhibit D**.

215. The October 29 letter detailed the FZP's shortcomings and outlined the City's legal duties under its housing element and state law.

216. The October 29 letter also warned the City that CalHDF would sue the City if it adopted the FZP as proposed.

217. CalHDF submitted a letter to the City on November 3, 2025 in advance of a public hearing of the Land Use and Transportation Committee of the San Francisco Board of Supervisors at which the FZP was considered. A true and accurate copy of that letter is attached to this Petition as **Exhibit E**.

218. The November 3 letter detailed the FZP's shortcomings and outlined the City's legal duties under its housing element and state law.

219. The November 3 letter also warned the City that CalHDF would sue the City if it adopted the FZP as proposed.

220. Petitioners CalHDF and CFH submitted a letter to the City on December 1, 2025 in advance of a

public hearing of the Land Use and Transportation Committee of the San Francisco Board of Supervisors at which the FZP was considered. A true and accurate copy of that letter is attached to this Petition as **Exhibit F**.

221. The December 1 letter detailed the FZP's shortcomings and outlined the City's legal duties under its housing element and state law.

222. The December 1 letter also warned the City that CalHDF and CFH would sue the City if it adopted the FZP as proposed.

223. Petitioners CalHDF, CFH, and YIMBY sent a letter to the City on February 6, 2026, informing the City that unless it took immediate action to correct the FZP's legal shortcomings, Petitioners would file suit against the City. A true and accurate copy of that letter is attached to this Petition as **Exhibit G**.

224. Petitioners have exhausted all available administrative remedies to the extent required by law.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION
(Writ of Mandate for Violation of Housing Element Law)
(Code Civ. Proc., § 1085; Gov. Code, § 65580 et seq.; Gov. Code, § 65587)

225. Petitioners reallege and incorporate by reference all preceding allegations in this Petition as if fully set forth herein.

226. The City has violated the Housing Element Law on numerous points, as alleged in this Petition.

227. The City has also failed to implement policy commitments in its housing element, including:

- The commitment to rezone sites in a manner sufficient that an analytical model that reasonably accounts for each site's likelihood of development demonstrates that the rezoning can be expected to produce 36,282 new housing units during the planning period;
- The commitment to rezone sites in a manner that complies with the Housing Element Law's minimum density requirements and restrictions on non-residential use for sites designated for

low-income housing;

- The commitment to rezone sites in a manner that complies with the Housing Element Law's requirement that the City provide evidence that existing uses on nonvacant sites designated for low-income housing are likely to be discontinued during the planning period; and
- The commitment to refrain from including new constraints on housing production when the City rezoned sites to accommodate its housing need.

228. The City's Housing Choice – San Francisco program, by attempting to preempt state housing laws, does not satisfy the City's duty to rezone pursuant to the City's sixth cycle housing element and the Housing Element Law.

229. The City bears the burden of proof in this action to demonstrate that it has complied with the policy commitments in its housing element and with the Housing Element Law. (Gov. Code, § 65587, subd. (d)(2).)

230. Petitioners have a direct and substantial interest in ensuring the City performs its legal duties as described herein, and a clear, present, and beneficial right to that performance.

231. Petitioners have public interest standing to challenge the City's failure to perform the duties described herein.

232. Petitioners have exhausted all administrative remedies to the extent required by law.

233. Petitioners have no plain, speedy, or adequate remedy to challenge the City's acts as described herein other than through this Petition, and therefore writ relief is necessary to compel the City to perform its duties under state law.

234. Petitioners therefore seek a writ of mandamus that compels the City to amend its zoning code to be consistent with the City's adopted housing element and the Housing Element Law.

SECOND CAUSE OF ACTION
(Writ of Mandate for Illegal Preemption of State Laws)
(Code Civ. Proc., § 1085; Cal. Const., art. XI, § 7; Gov. Code, §§ 65852.21, 65852.28, 65912.100 et seq., 65913.4.5, 65915 et seq., 66411.7, and 66499.41)

235. Petitioners reallege and incorporate by reference all preceding allegations in this Petition as if fully set forth herein.

236. The Housing Choice – San Francisco program explicitly states that the City will not follow certain state housing laws in certain zoning designations.

237. This provision of the Housing Choice – San Francisco program is an illegal attempt to preempt state law by local ordinance.

238. This provision of the Housing Choice – San Francisco program also violates the Housing Element Law's requirement that San Francisco conduct a rezoning, pursuant to its housing element, sufficient to accommodate the City's housing need.

239. Petitioners have a direct and substantial interest in ensuring the City performs its legal duties as described herein, and a clear, present, and beneficial right to that performance.

240. Petitioners have public interest standing to challenge the City's failure to perform the duties described herein.

241. Petitioners have exhausted all administrative remedies to the extent required by law.

242. Petitioners have no plain, speedy, or adequate remedy to challenge the City's acts as described herein other than through this Petition, and therefore writ relief is necessary to compel the City to perform its duties under state law.

243. Petitioners therefore seek a writ of mandamus invalidating the portion of the Housing Choice – San Francisco program that purports to strip state law protections, including those found in sections 65852.21, 65852.28, 65912.100 et seq., 65913.4.5, 65915 et seq., 66411.7, and 66499.41 of the Government Code, from projects that use the Housing Choice – San Francisco program.

THIRD CAUSE OF ACTION
(Writ of Mandate for Zoning and General Plan Inconsistency)
(Code Civ. Proc., § 1085; Cal. Gov. Code, § 65860(b))

244. Petitioners reallege and incorporate by reference all preceding allegations in this Petition as if fully

set forth herein.

245. The City of San Francisco's zoning code is currently inconsistent with the housing element of the City's general plan, in violation of Government Code section 65860.

246. Petitioners have a direct and substantial interest in ensuring the City performs its legal duties as described herein, and a clear, present, and beneficial right to that performance.

247. Petitioners have public interest standing to challenge the City's failure to perform the duties described herein.

248. Petitioners have exhausted all administrative remedies to the extent required by law.

249. Petitioners have no plain, speedy, or adequate remedy to challenge the City's acts as described herein other than through this Petition, and therefore writ relief is necessary to compel the City to perform its duties under state law.

250. Petitioners therefore seek a writ of mandamus that compels the City to bring its zoning ordinance into compliance with its general plan.

FOURTH CAUSE OF ACTION
(Declaratory Judgment)
(Code Civ. Proc., § 1060)

251. Petitioners reallege and incorporate by reference all preceding allegations in this Petition as if fully set forth herein.

252. An actual controversy has arisen and now exists between Petitioners and Respondent concerning Respondent's duties under the law. As described above, Petitioners contend that: the City has failed to implement the policy commitments in its housing element, and this failure violates the Housing Element Law; the City's Family Zoning Plan fails to meet the Housing Element Law's requirements for a rezoning plan; the City's Housing Choice – San Francisco program illegally attempts to preempt state law, and this violates state law and the Constitution of the State of California; the City's Housing Choice – San Francisco program does not comply with the Housing Element Law;

the City's zoning ordinance is currently inconsistent with the housing element of the City's general plan; and the City is currently out of compliance with the Housing Element Law.

253. Upon information and belief, the City contends otherwise on all points.

254. A judicial declaration of the City's legal duties is therefore necessary, and Petitioners request such a declaration from this Court.

VI. PRAYER

WHEREFORE, Petitioners pray for relief as follows:

1. For a writ of mandate that compels the City to amend its zoning code to be consistent with the City's adopted housing element and the Housing Element Law.
2. For a writ of mandate invalidating the portion of the Housing Choice – San Francisco program that purports to strip state law protections, including those found in sections 65852.21, 65852.28, 65912.100 et seq., 65913.4.5, 65915 et seq., 66411.7, and 66499.41 of the Government Code, from projects that use the Housing Choice – San Francisco program.
3. For a writ of mandate that compels the City to bring its zoning code into compliance with its general plan.
4. For a judicial declaration that the City has violated state law, as alleged in this Petition.
5. For a judicial declaration of the City's duties under state law.
6. For a judicial declaration that the City, until such time as it amends its zoning code to be consistent with the City's sixth cycle housing element and the Housing Element Law, is out of compliance with the Housing Element Law.
7. For attorney's fees and costs of suit as allowed by law, including attorney's fees pursuant to Code of Civil Procedure section 1021.5.
8. For such other and further relief as may be just and proper.

Dated: February 12, 2026

CALIFORNIA HOUSING DEFENSE FUND

By: Nicholas Eckenwiler
NICHOLAS ECKENWILER

Attorneys for Petitioner
CALIFORNIA HOUSING DEFENSE FUND

Dated: February 11, 2026

CALIFORNIANS FOR HOMEOWNERSHIP, INC.

By:
MATTHEW GELFAND

Attorneys for Petitioner
CALIFORNIANS FOR HOMEOWNERSHIP, INC.

Dated: February 11, 2026

PATTERSON & O'NEILL, PC

By:
RYAN PATTERSON

Attorneys for Petitioners
YES IN MY BACK YARD
NICHOLAS WEININGER
ELIZABETH SIEGLE
PRODAN STATEV
JEREMY ROBERTS

VERIFICATION

I, Nicholas W. Eckenwiler, declare:

I am employed by and represent the California Housing Defense Fund, a Petitioner in the above-captioned matter. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 11 day of February, 2026, at Oakland, California.

Nicholas W. Eckenwiler

VERIFICATION

I, Matthew P. Gelfand, declare:

I am employed by and represent Californians for Homeownership, a Petitioner in the above-captioned matter. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 11th day of February, 2026, at Los Angeles, California.



Matthew P. Gelfand

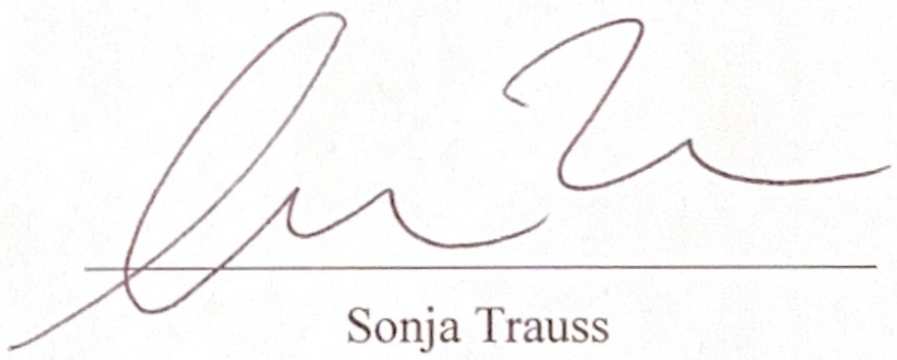
VERIFICATION

I, Sonja Trauss, declare:

I am the founder and executive director of petitioner and plaintiff Yes In My Back Yard ("YIMBY"). I am authorized to verify this Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief on behalf of YIMBY. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12 day of February, 2026, at Berkeley, California.



Sonja Trauss

VERIFICATION

I, Nicholas Weininger, declare:

I am a natural person and a resident of the State of California and the City and County of San Francisco. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 11 day of February 2026, at San Francisco, California.

Nicholas Weininger

[redacted]

VERIFICATION

I, Lizzie Siegle, declare:

I am a natural person and a resident of the State of California and the City and County of San Francisco. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 11 day of February, 2026, at San Francisco, California.

Lizzie Siegle

VERIFICATION

I, Prodan Statev, declare:

I am a natural person and a resident of the State of California and the City and County of San Francisco. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12 day of February 2026, at San Francisco, California.

Prodan Statev

VERIFICATION

I, Jeremy Roberts, declare:

I am a natural person and a resident of the State of California and the City and County of San Francisco. I have read the foregoing Verified Petition for a Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof to be true of my own knowledge, except as to those matters alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12 day of February, 2026, at San Francisco, California.

Jeremy Roberts

Exhibit A

San Francisco Planning Commission

January 30, 2024

We write with profound concern and disappointment about SF Planning's memo regarding the February 1, 2024 informational hearing on the rezoning. The rezoning described in this memo undermines San Francisco's housing element and state law:

1. Housing Element Action 7.1.1 requires the City's rezoning to "reasonably account" for the probability that rezoned sites are actually developed as determined by an "analytical model," with the goal of actually permitting 36,282 additional units during the planning period. The department's so-called "final" rezoning proposal lacks any estimate of the number of units it will create, let alone any mention of an analytical model. **Under Action 7.1.1, the City must (1) reasonably estimate the number of units the rezoning plan will produce and (2) rezone further if the plan is not estimated to produce 36,282 units during the planning period**.[1]
2. The memo falsely states that ministerial review through SB 423 and AB 2011 will be available to projects using a new local density bonus program. However, these state laws are not compatible with the BMR modifications proposed in the local density bonus program. Furthermore, the City Attorney's Office has stated that the City cannot provide an alternative ministerial pathway under the City Charter.
3. While we have no objection to a truly optional local density program, **developers must not be required to use this new local program (and thereby opt out of State Density Bonus Law) to access the full capacity of the rezoning**, as this would undermine the housing element, HCD's Housing Policy and Practice Review, and state law. HCD has noted that SDBL has been crucial for project approvals in San Francisco, as it comes with critical protections, known case-law, and is a crucial backstop against the City's anti-housing political process. Furthermore, HCD's Site

[1] Using the City's own BlueSky model, we estimate that the current "final" proposal is less than half the size it needs to be to produce 36,282 units in the planning period, even under 2016 development conditions.

Inventory Guidebook is also clear that sites for lower-income housing must be zoned such that SDBL applies. We therefore believe HCD will measure the capacity provided by the rezoning program under SDBL, not under the local program.[2]

4. Action 7.1.1 promises that the rezoning "shall not add government constraints that reduce project financial feasibility." However, staff proposes adding new design standards and commercial relocation requirements. **These new constraints must be removed.**

We urge you to rethink violating the housing element and state housing law.

Best regards,

Robert Fruchtman
Volunteer Lead, San Francisco YIMBY

David Broockman
Volunteer Lead, San Francisco YIMBY

Salim Damerdji
Volunteer Lead, San Francisco YIMBY

CC: Gustavo Velasquez, California Department of Housing and Community Development
Megan Kirkeby, California Department of Housing and Community Development
Melinda Coy, California Department of Housing and Community Development
Shannan West, California Department of Housing and Community Development
David Zisser, California Department of Housing and Community Development
Sohab Mehmood, California Department of Housing and Community Development
Lisa Frank, California Department of Housing and Community Development
Fidel Herrera, California Department of Housing and Community Development
Alex Fisch, California Department of Justice
Matthew Struhar, California Department of Justice
Lisa Gluckstein, Office of San Francisco Mayor London Breed
Annie Fryman, SPUR
Rich Hillis and Lisa Chen, San Francisco Planning
Keith Diggs and Sonja Trauss, YIMBY Law
Matt Gelfand, Californians for Homeownership
Senator Scott Wiener

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[2] https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf, pp. 13–15

Exhibit B

YIMBY Law

2261 Market Street STE 10416
San Francisco, CA 94114
hello@yimbylaw.org

YIMBY LAW

9/11/2025

San Francisco Planning Commission
400, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

(via email) commissions.secretary@sfgov.org

Re: San Francisco's Draft Housing Rezoning Program and Compliance with State Law

Dear Commissioners,

YIMBY Law is a 501(c)(3) non-profit organization dedicated to ensuring compliance with California's housing laws. We write today to express significant concerns regarding the City's proposed Housing Element Rezoning Program and the accompanying "Housing Choice–San Francisco" local bonus ordinance.

Summary

While the rezoning plan, including the local program, is a good step forward for housing in San Francisco, we are concerned that the plan does not actually fulfill what it promises to do. The city has produced no publicly available reports that show how the plan will be more capable of delivering the housing San Franciscans desperately need than what state laws already allow. While we support density decontrol, we do not believe the city has shown that the handful of incentives that are coupled with it will be enough to produce any more housing than state laws such as the Density Bonus Law already do.

Capacity Projections

San Francisco's Housing Element made a binding commitment to meet its Regional Housing Needs Allocation (RHNA) through a rezoning program rooted in a probabilistic analytical model Program 7.1.1. San Francisco did not base its rezoning on a site's inventory, but on the projected housing based on that model. The targets and assumptions it sets are enforced by Program 8.1.5. If San Francisco does not produce sufficient units, Program 8.1.5. applies additional upzoning requirements.

Despite the City's commitments to specific unit production, applying the city's own model used to determine the shortfall on the rezone sites, we can determine that the map would produce around 17k homes by 2031, or 47% of the 36k units promised by Program 7.1.1. That regression analysis was built on different logic than the Housing Element's existing capacity analysis. While the proposal does not clearly make up for the RHNA shortfall, its usefulness is difficult to gauge when it functions by different logic than the original rezoning analysis. In order to be comprehensible, realistic, and enforceable, San Francisco must produce a "realistic capacity" table for the rezoned sites that incorporates the Housing Element' regression analysis.

We understand that the City has conducted its own analysis that disputes these figures, but the methodology and details of this analysis have not been made publicly available; therefore we remain concerned and skeptical about the efficacy of the rezoning program in meeting the city's needed housing requirements under housing element law.

Compliance with State Law

San Francisco's rezoning program would institute a local density bonus program that, theoretically, according to the city's assertions (which are not supported by any publicly available information), would accommodate the City's RHNA shortfall. The practical and legal realities according to our analysis suggest that it would fail to produce housing at the suggested rates, and fail to meet statutory requirements.

The latest staff report associated with the September 11 Planning Commission hearing notes that 77% of parcels in the rezoning plan fall into the form based zoning code and will not have their heights increased, while for "the vast majority of residential sites, these changes are only available for projects opting into the local program."

Some proposed areas not eligible for the state bonus would benefit from San Francisco's local program. However, this local program would be exclusive to California's state density bonus law in all areas where both options are available. Whether or not the local program is superior to state incentives, the one cannot replace the other. State density bonus law is intended as a bonus on top of local rules, and should not be supplanted when it generally offers superior development potential.

San Francisco's density decontrol is generally less feasible than the state program. While we applaud the city for applying a local density bonus program to projects between 2-4 units, which are not otherwise eligible for the state density bonus, as well as allowing alternatives to providing on-site affordable units, such as off-site developments, for the vast majority of the city's proposed "rezoning" program, state density bonus law offers a superior alternative: unlimited waivers from local zoning and development standards,

providing limited discretion for local review. Comparatively, the local program is far more stringent. It contains strict rules about building size, setbacks, open space, dwelling unit exposure, and parking allowances. It contains only a 15% reduction of other development standards. The proposal would allow for greater than 15% reductions if approved by a discretionary process. Even if that expensive, time consuming process doesn't result in universal denials, it renders the project not code compliant, forcing the developer to lose protections under the Housing Accountability Act.

While we support the majority of the proposed staff changes made to the local program, we believe that they do not go far enough to ensure that the local program is a superior alternative to state density bonus law. For example, the proposal to require projects with 5+ units to reserve a minimum of 25% of the units for 2+BR units is a constraint that is not required under state density bonus law that will negatively impact density potential for the local program. Additionally, the proposed local program not only requires applicants to choose to give up their option to pursue waivers and incentives under state density bonus law, but *any other* state program that provides its own bonuses or waivers from local zoning, such as AB 2011, which offers waivers of local side and rear setback requirements when those requirements limit feasibility, limits front setback requirements, and allows 55 foot heights, which are greater than the 40 foot height limits proposed for the majority of the local program's rezoned sites.

This proposal not only replaces state density bonus allowances with a worse option, it places new constraints on any such developments via inclusionary requirements and requiring new wind studies on construction. These constraints were not reviewed in the Housing Element, meaning that they may not be imposed or that San Francisco must amend its Element to account for those constraints. New constraints must be accounted for in the Element, to demonstrate how San Francisco can realistically meet its RHNA requirements.

San Francisco must also analyze how this program would interact with existing land use regulations. Transfer taxes, inclusionary requirements, and impact fees are key drivers of unit loss, but have not been incorporated into any City analyses yet. We encourage the City Economist to incorporate them into any future analysis of this program.

Even if all of these deficiencies are corrected, they cannot make up for the requirement to change the base zoning of parcels, as required by Housing Element law and HCD interpretation. Under the new scheme, San Francisco would not change its zoned capacity, and therefore would not comply with state law. Density bonuses must add capacity on top of that allowed for in the zoning code.

Conclusion

Given the substantial deficiencies in San Francisco's rezoning program and the speculative nature of its local density bonus ordinance, the City's Housing Element certification is at risk. The burden is on San Francisco to demonstrate compliance. The use of analytical models that inflate development probability, the reliance on unproven local bonus mechanisms, and the introduction of new constraints all undermine that burden. In short, the program is not legally defensible as currently drafted, with the limited information supporting the city's conclusions that it exceeds the city's RHNA obligation

YIMBY Law has taken legal action against the City of Los Angeles for a similar failure to deliver a legally compliant rezoning program. We sincerely hope litigation will not be necessary in San Francisco. However, San Francisco will be vulnerable to lawsuits from parties working to ensure that the City complies with state law and delivers a realistic path toward housing affordability and accessibility.

We urge the Board to direct Planning to:

- Re-run the BlueSky regression analysis used for the Housing Element's "existing capacity" estimate on the rezoning proposal to produce a transparent, realistic capacity table that is made publicly available.

- Incorporate the waiver and incentive framework of SDBL into the local bonus program, or ensure that projects can access SDBL concurrently.

- Remove new constraints on development introduced by the ordinance.

- Ensure that the rezoning program meets or exceeds the 36,282-unit requirement via base zoning and that its methodology aligns with Program 7.1.1.

The stakes for San Francisco are high. We urge the City to correct course by allowing the use of density bonus and other state programs in combination with the local program.

Sincerely,

Jack Farrell, Esq.
Research Attorney
YIMBY Law

Exhibit C

Paul McDougall, California Department of Housing and Community Development
Mayor Daniel Lurie
San Francisco Board of Supervisors (re: file #250700)
October 29, 2025

We write to urgently draw your attention to **an analysis the City of San Francisco ("SF") released that finds that its own rezoning plan would violate state law.** The Family Zoning Plan ("FZP") is a significant step forward, but the city's analysis found that it will not meet the city's Housing Element's 36,282-unit requirement. **According to the city's own numbers, state law requires the city to conduct additional rezoning beyond the FZP.**

As a reminder, in 2022, the California Department of Housing and Community Development ("HCD") suggested that, instead of a traditional sites inventory, SF instead pledge to assess the capacity of its rezoning using the method from its underutilized sites analysis (a model called BlueSky, which estimates the likelihood of development). Housing Element Program 7.1.1 thus committed that SF's rezoning "shall reasonably account for sites' likelihood of development during the planning period using an analytical model."

SF's August submission to HCD revealed that SF still had not done so (see Appendix). HCD thus instructed SF that "As part of Program 7.1.1 and using analytical models to account for a site's likelihood of development in the planning period, the city should continue to explore additional and multiple methods and make adjustments as appropriate."

Today, SF did so: its City Economist reported that he used an updated version of the BlueSky analytical model—the same method HCD originally suggested SF use—to estimate the number of units the FZP will likely develop. **He reported that, in the best case scenario, the City's analytical model finds that the FZP is only likely to develop 14,646 units by 2045, far less than the 36,282 required by 2031** under 7.1.1. In other words, **using the exact method HCD suggested SF use, the City itself has found that its rezoning plan does not meet Program 7.1.1's requirements, and is around 10 times too small.**

Gov. Code § 65588(e)(4)(C)(iii) states, "If a jurisdiction…fails to complete the required rezoning within the time period required, the jurisdiction's adopted housing element shall be subject to" the housing element decertification process. Thus, **if SF fails to expand its plan, HCD will be legally obliged to begin the decertification process**.

We encourage HCD to offer SF guidance about how to bring its proposed rezoning into compliance, building on HCD's recent guidance to the city to "make adjustments as appropriate" when more analysis was made available. For example, using recent changes in state law (e.g., SB 131, SB 79), additional rezoning or policy changes that supplement the FZP (e.g., reduced fees and exactions) could be passed within months. Given the timeline required for decertification, HCD could reasonably offer SF up to six months before the builders' remedy would apply to fully complete its "required rezoning" through such a supplement.

Confirming that SF must rely on the City Economist's updated BlueSky analytical model to assess the rezoning's capacity, as well as the actions taken to satisfy Program 8.1.5 (the "circuit breaker"), would also be consistent with HCD's recent direction to the city to "us[e] conservative assumptions…that facilitate the highest housing outcomes."

SF's actions risk paving a path for other cities to evade state law. In particular, rather than "demonstrat[ing] that the existing use [on each non-vacant site] does not constitute an impediment to additional residential development" (Gov. Code, § 65583.2(g)), cities will be tempted to follow SF: promise in a Housing Element to provide this evidence later in the form of statistical analysis—but then ignore what this evidence shows when rezoning.

Best regards,

Salim Damerdji
Volunteer Lead, San Francisco YIMBY

Jane Natoli
San Francisco Organizing Director,
YIMBY Action

CC: Gustavo Velasquez, California Department of Housing and Community Development
Megan Kirkeby, California Department of Housing and Community Development
Melinda Coy, California Department of Housing and Community Development
Shannan West, California Department of Housing and Community Development
David Zisser, California Department of Housing and Community Development
Lisa Frank, California Department of Housing and Community Development
Fidel Herrera, California Department of Housing and Community Development
Alex Fisch, California Department of Justice
Matthew Struhar, California Department of Justice
David Pai, California Department of Justice
Annie Fryman, SPUR
Aly Bonde, Office of Mayor Daniel Lurie
Sarah Dennis-Phillips, Rachael Tanner, and Lisa Chen, San Francisco Planning
Sonja Trauss, YIMBY Law
Matt Gelfand, Californians for Homeownership
Senator Scott Wiener

Appendix: Why the Planning Department's methods do not satisfy the Housing Element's requirement to "reasonably account for sites' likelihood of development during the planning period using an analytical model"

The San Francisco Planning Department's August 1 submission to HCD contained three analyses of the capacity provided by its rezoning. None of these analyses satisfy Program 7.1.1's commitment to "reasonably account for sites' likelihood of development during the planning period using an analytical model." The below details why each of the Planning Department's methods do not satisfy this requirement. Indeed, a closer look at the Planning Department's analyses suggests conclusions that are in line with the City Economist's finding that the rezoning is insufficient.

"Soft Sites Method"

Under this method, the vast majority of the rezoning's capacity is from sites without existing residential uses (but that largely have other uses). The Planning Department assumes that 70% of these sites will be developed to their maximum capacity during the planning period. This 70% assumption is not "reasonabl[e]" (and certainly not "conservative" like the city claims):

1. In San Francisco, fewer than 70% of entitled projects are ultimately developed — making it implausible that 70% of all sites without residential use will be developed, even those where no interest has been expressed in development or discontinuing existing uses. As another comparison, the Terner Center found that only 8.6% of LA's very best sites are developed over 5 years (versus SF's 70% assumption across a huge number of sites).
2. These sites largely do have other non-residential uses which make their development especially improbable. For example, the first page of SF's parcel list includes 1201-05 Columbus Avenue, a 3-story Travelodge in Fisherman's Wharf. The city assumes there is a 70% chance that properties like this will be redeveloped during the planning period.
3. The city's related assertion that 2% of sites with existing residential uses will be redeveloped during the planning period is similarly made without evidence.

This approach also allows the city to evade complying with GC 65583.2(g)'s requirement that the city provide substantial evidence that existing uses on "lower income" sites are likely to be discontinued during the planning period. The city has not provided site-specific evidence supporting their assertion that most sites with existing non-residential uses will be developed during the planning period. The lack of site-specific evidence would not be a problem if the city had provided statistical evidence (i.e., had statistically estimated what percent of these sites will have their existing use discontinued during the planning period based on historical data, as action 7.1.1 promises). But the Planning Department simply provides no evidence whatsoever that 70% of sites with existing non-residential uses will be developed, either site-specific or

statistical. This 70% figure is simply fabricated — not from "an analytical model," and it is not at all "reasonable."

"Citywide Capacity Method"

This method calculates what share of the city's remaining zoned capacity was developed annually over the last 18 years (2005-2023). It then assumes the new capacity created by the rezoning will be developed at a similar annual rate.

While reasonable in theory, there are several errors and problems with how the Planning Department is implementing this approach that make it not "reasonabl[e]" in practice:

1. The city has two versions of this approach, each with errors:
    a. The primary version (with "exclusions") divides citywide development by the amount of capacity on only a subset of parcels. This overstates the rate at which capacity historically translates into development because less capacity is considered despite all development being considered. This is like computing the average grades of all students in a class by adding up all students' grades but then dividing this total by half the number of students there are in the class.
    b. The city describes another version of the method that measures capacity on all parcels but uses Planning entitlements to measure development; during this period there were 90K entitlements but only 53K building permits. Using entitlements to measure development overstates the historical development rate, as in San Francisco many entitlements are never developed (in part due to constraints the city places on development).
2. The city's statistic that 53K units were constructed citywide 2005-2023 includes development from development agreements (DAs). By counting historical DA development when computing the rate at which historical zoned capacity is developed, the city therefore assumes that the rezoning will produce new DA development during this planning period. This is unreasonable, as DAs do not result from (re)zoning. Furthermore, the city's housing element already counted expected development from DAs during the planning period in its claims of existing capacity.
3. Parcels where projects have been proposed but have not received permits are excluded from the city's calculation of its historical capacity; this leads the city to underestimate how much historical capacity it had, and therefore overstate the development rate of its capacity.
4. The new rezoned capacity is also less developable than the existing remaining capacity. Specifically, according to the city's Bluesky model (the model it used for its underutilized sites analysis), the new capacity is about 20% less likely to be developed. This is because, for example, rezoned capacity is 3x more likely to be on sites with an existing residential use than existing capacity. It's therefore not entirely reasonable to assume that the city's historical rate of development will manifest for the new capacity.

5. The Planning Department is relying on its UrbanSim tool to measure its remaining zoned capacity (313K). But the city's housing element (Sites Inventory Appendix B2 p. 4) gives a much larger number for this (572K), as do our own calculations. Insofar as the city is now understating how much capacity it has, it is therefore overstating the rate at which that capacity has been developed. We have asked for data that would help us understand this discrepancy, but the city has indicated that its UrbanSim tool is unable to provide the underlying data that supports this 313K calculation.

When addressing the first four errors and issues above, and when using the city's housing element's estimate that the city has 572K units of capacity remaining (see point 5), the historical development rate is 0.4% and the adjusted capacity of the rezoning is therefore 10K units.

"Financial Feasibility Method"

The Planning Department has contracted with UrbanSim to estimate whether development will be economically feasible on rezoned parcels. While this analysis is welcome, there are several problems with this approach:

1. Totaling the amount of economically feasible development does not "account for sites' likelihood of development." Historically, only a fraction of economically feasible units are actually developed, and some research practitioners have advised us that there is nearly an order of magnitude difference between the two.
2. The Planning Department's economic assumptions are not "reasonabl[e]": the Department assumes that construction costs, interest rates, and developer return expectations will drop without providing evidence. It also assumes rents will jump. The Department justifies these optimistic assumptions by asserting that it is only responsible for making housing feasible to develop under better economic conditions than are likely during this planning period — but action 7.1.1 commits to providing enough capacity to make 36K units likely developed during this planning period. Furthermore, the city's poor economic environment for development reflects the city's constraints on development that Housing Element Law is supposed to remediate. I.e., the fact that the city so heavily constrains development makes more rezoning (and changes to its other policies) necessary, and cannot be ignored when considering the appropriate scope of actions to accommodate development.
3. The Department's submission describes a flawed approach for using UrbanSim's output to account for the likelihood of development: asserting that 2% of economically feasible projects will occur on sites with existing residential uses and 35% of economically feasible projects will occur on sites with other non-residential uses. These assumptions are not based on any evidence and, for the same reasons we described in the context of the "soft sites" method, are not reasonable.
4. After applying this flawed approach for accounting for the likelihood of development, the Planning Department nevertheless finds that only 19K units will be developed during the planning period. This is short of the 36K required by action 7.1.1. The Planning

Department argues that this is acceptable because the method must only demonstrate sufficient capacity for meeting the city's 16K RHNA shortfall in the Moderate and Above-Moderate income categories. But action 7.1.1 makes no reference to separate by-category targets, it simply states that the rezoning must "accommodate… approximately 36,282 new units." Furthermore, the Department's argument is also belied by the Housing Element Law and the No Net Loss Law, both of which contemplate development of market-rate and mixed-income projects on "lower income" sites (GC 65583.2(c) & (h); GC 65863(c)(2)).

Exhibit D

CAL HDF

Oct 29, 2025

San Francisco Board of Supervisors
49 South Van Ness Avenue
San Francisco, CA 94103

Re: San Francisco's Housing Element Implementation

By email: rachael.tanner@sfgov.org, Lisa.chen@sfgov.org, Board.of.Supervisors@sfgov.org, bos@sfgov.org, bos-supervisors@sfgov.org, aly.bonde@sfgov.org, sarah.dennis-phillips@sfgov.org

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Dear San Francisco Board of Supervisors,

The California Housing Defense Fund ("CalHDF") submits this letter to outline the City of San Francisco's legal obligations surrounding its efforts to implement its housing element. Specifically, CalHDF writes to remind the City:

1. The City must rezone as promised in its housing element – it must upzone enough to produce (not merely attain capacity for) 36,282 units based on an analytical model that assesses the probability of development for rezoned parcels under current economic conditions.
2. The City's housing element and the housing element law oblige it to reduce constraints on housing production and refrain from adding new constraints, especially in the City's efforts to satisfy its other housing element obligations.

If the City does not obey the law on these points, CalHDF stands ready to challenge the City's intransigence in court. Such a lawsuit would expose the City to penalties, including the payment of CalHDF's attorney's fees. CalHDF urges the City to avoid such needless litigation and instead comply with state law, the contours of which are explained in detail below.

The City's Proposed Rezonings Are Inadequate

The Housing Element Law (Gov. Code, §§ 65580 et seq.) establishes a clear process for the evaluation, planning, and enactment of the City's housing policy. That process has a two-part structure. In the first part, the City must adopt a housing element on a specified timeline and that meets certain requirements. In the second part, the City must implement the programs promised in its housing element. Crucially, the second step relies on the first step: what, precisely, the City must do in the second step has already been established by the housing element. (See Gov. Code, § 65583, subd. (c).) The second step is *not* a freestanding exercise in policymaking or policy analysis. (See *id.*) The policymaking and policy analysis are conducted in the first step, and the Housing Element Law leaves essentially no room to alter the results at the second step.[1]

San Francisco has completed the first step. It adopted a housing element on January 31, 2023, adhering to the substantive and procedural rules in the Housing Element Law. The California Department of Housing and Community Development ("HCD") also certified the City's adopted housing element as legally compliant, pursuant to its statutory authority. (See, e.g., Gov. Code, § 65585.) That housing element made numerous detailed commitments. These commitments include promises to rezone large areas of the City to accommodate housing growth necessary to meet demand and ease upward pressures on housing costs. (See Gov. Code, §§ 65583 [establishing standards for required rezonings]; 65583.1 [same]; 65583.2 [same].) The housing element, moreover, promised not only to rezone, but to engage in detailed analysis that would help shape the rezoning. (See Program 7.1.1 in San Francisco's Housing Element, available here.)

San Francisco is now at the second step of the process: implementing the commitments in its housing element. This includes the aforementioned rezoning and associated policy analyses. The City's proposed rezoning, however, fails to fulfill crucial aspects of housing element commitments – commitments that the City, as explained above, cannot renege on without going through a full amendment process for its housing element.

Program 7.1.1 of the City's housing element commits the City to implementing a rezoning program that "reasonably account[s] for sites' likelihood of development during the planning period using an analytical model." The housing element uses mandatory language, stating that the City "shall" build its rezoning program around such a "probability-of-development" analysis. In sum: the City must rezone to an extent that the expected number of new units that will be built after the rezoning, calculated via a robust probability-of-development analysis, meets the City's projected housing need (i.e. the

[1] If the City wishes to alter the policy analysis or programs promised by its housing element, it has an avenue to do that: it may amend its housing element according to the procedures set forth in Government Code section 65585. But the process remains a two-step process: the City must first amend its housing element, and only then can it proceed to the second step of implementing the promised housing element programs.

Regional Housing Needs Assessment, or "RHNA," allocation, plus a buffer specified in the housing element).

The current rezoning proposal does not do this. The proposal's failure is twofold. First, none of the methods the Planning Department has relied on to assess whether the proposal will satisfy San Francisco's rezoning obligation constitutes a probability-of-development analysis using an analytical model in line with Program 7.1.1 in the housing element. Second, when the City has conducted an analysis that meets the requirements of Program 7.1.1, the analysis shows the current rezoning proposal will not satisfy San Francisco's rezoning obligation.

With respect to the rezoning proposal's first failure: the City proposes three methods to project the number of new units the proposed rezoning can be expected to produce. None of the three methods measures up to the standards in Program 7.1.1.

1. The first method is the "soft sites" method, which is described in appendix B of the City's housing element. This method assumes that a site currently hosting a residential use has a two percent probability of being redeveloped with the rezoning's planned residential capacity and a site currently hosting a non-residential use has a seventy percent probability of redevelopment. Such rigid calculations based on uniform, citywide assumptions about the odds of development on thousands of very different sites are not an "analytical model" and do not "reasonably account for sites' likelihood of development" as required by Program 7.1.1. These assumptions, furthermore, are not reasonable and do not rest on any evidence. They are highly motivated guesswork, and highly motivated guesswork will not cut the mustard.

2. The second method rests on an economic model developed by a consultant. This model does not assess the likelihood of a given site's being developed under the rezoning proposal. Instead, it calculates how many units of housing are "financially feasible" on parcels throughout the City. This is not an "analytical model" that "reasonably account[s] for sites' likelihood of development" as required by Program 7.1.1. As the City well knows, property owners across the City submit permit applications for only a small portion of economically feasible new housing units, and not all of those permit applications ultimately produce actual housing units. The City attempts to address this problem by assuming – similar to the soft sites method – that two percent of sites with economically feasible new housing developments currently occupied by residential uses and thirty-five percent of other sites with economically feasible new housing developments will be developed. This is inadequate for the same reasons the soft sites method is inadequate. Moreover, this method projects only 19,000 new units of housing over the planning period – far below the 36,282 units the City must accommodate.

3. The third method involves looking at "how much of the City's overall zoning capacity has gotten built out over the years." This – again – is not an "analytical model." Nor does it look at the sites slated for rezoning under the current rezoning proposal and assess the likelihood they will produce new housing. This method is further flawed because much of San Francisco's recent increase in zoned capacity, and much of the new housing that has been built, took place on vacant sites, whereas the proposed housing element rezoning covers a broad swath of the City and comprises mostly non-vacant sites. Other problems here include unrealistically low estimates of the City's residential zoning capacity in prior years (thus inflating the share of residential zoned capacity that has been built out) and the inclusion of residential projects built under development agreements, which do not correspond to rezonings, and which were separately counted towards the City's pre-existing residential zoned capacity in the housing element.

With respect to the rezoning proposal's second failure, analytical models that would satisfy Program 7.1.1 in the housing element demonstrate that the proposed rezoning will not produce anywhere close to the required number of new units. San Francisco's City Economist recently released an analysis of the City's proposed rezoning (available at the link and appended to this letter). This analysis relies on the exact approach that San Francisco's Housing Element pledged to use: an analytical model that assesses the probability of development. (Indeed, it is the exact approach HCD suggested the city use.) The results are damning. In the **best case scenario,** San Francisco's City Economist's analytical model found that the rezoning can only be reasonably expected to produce around **14,646 units by 2045**. Less optimistic assumptions produce a forecast of only 8,504 units by 2045. This indicates the rezoning plan falls far short of what is required: being shown by an analytical model to reasonably be expected to produce **36,282 units by 2031**.

These are not minor problems. Program 7.1.1 is central to San Francisco's compliance with the Housing Element Law. The City's housing element meets the requirements of the Housing Element Law *only because* it included Program 7.1.1's commitment to rezone based on a realistic probability-of-development analysis. To be crystal clear: without Program 7.1.1, the housing element does not comply with Government Code section 65583.2, subdivision (g)(2). This is because the housing element relies on non-vacant sites to accommodate more than half of its RHNA allocation at the lower-income level, and thus the Housing Element Law requires its housing element to "demonstrate that the existing use [on each non-vacant site] does not constitute an impediment to additional residential development." (Gov. Code, § 65583.2, subd. (g)(2).) "An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued." (*Ibid.*) San Francisco's housing element does not demonstrate with substantial evidence that specific existing uses on specific sites intended to accommodate low-income housing will not impede additional residential development. Instead, the housing element commits the City, in Program 7.1.1, to rezoning in a manner that "shall

reasonably account for sites' likelihood of development during the planning period using an analytical model." That commitment is the basis of the City's compliance with Government Code section 65583.2, subdivision (g)(2). Refusing to follow through on that commitment would leave the City without any basis for compliance with the Housing Element Law on this point.[2]

CalHDF urges the City to do as the law requires. The City must adopt a rezoning that an analytical model such as the City Economists' shows can reasonably be expected to produce 36,282 new units under current economic conditions, as required by Program 7.1.1. Alternatively, the City can increase the probability of sites' development (again, according to a realistic analytical model) by adjusting non-zoning policies that constrain housing production: the City could, for example, reduce transfer taxes for residential projects, impact fees for new residential construction, or inclusionary zoning requirements. The City should not – it cannot – rely on flawed and insufficient analyses to justify its planned rezonings. Doing so violates the law.

The City Must Reduce Constraints on Housing Production, Not Add New Ones

The City's planned rezoning, although on net it adds new capacity, includes constraints on housing development that do not exist under current zoning rules. Specifically, the proposal includes minimum office densities, caps on dwelling unit size, new limits on curb cuts, and lower parking maximums. Furthermore, the City's proposed local zoning bonus program, known as the "Housing Choice–San Francisco" ("HCSF") program, imposes new limitations on residential projects' eligibility for protections and benefits under state laws, including the Statewide Density Bonus Law. While some of these constraints may be good policy, they pose a problem for two reasons.

First, the new constraints were not analyzed by the City's housing element. The Housing Element Law requires local governments to analyze governmental constraints on housing production. (Gov. Code, § 65583, subd. (a)(5).) The results of this analysis then inform the policies and programs in the housing element. (See *id.*; *id.* at subd. (c)(3); *Californians for Homeownership, Inc. v. City of Beverly Hills* (2023) Los Angeles County Superior Court, Case No. 23STCP00143, at p. 6, [finding planned rezonings for housing element site inventory must consider constraints identified by the housing element's constraints analysis] [opinion attached to this letter].) Because the new constraints attached to the City's rezoning proposal were not analyzed in the City's housing element, the City cannot rely on the rezoning proposal to produce as many units as it is required to unless the City analyzes the effects of the new constraints and offsets their impact on housing production.

[2] The City could address this issue by producing site-specific evidence that existing uses on non-vacant sites will not impede additional residential development, adding that evidence to a new draft of its housing element, and adopting the amended housing element. But – again – the City would have to do this before rezoning. The process of developing and adopting housing element commitments and then, separately, implementing those commitments remains a two-step process.

Second, the City's housing element explicitly recognizes this and commits the City to refrain from adding new constraints. Program 7.1.1 states: "The rezoning program … shall not add government constraints that reduce project financial feasibility as determined by an analysis prior to the rezoning enactment." Program 8.1.6 states: "[A]ny City-adopted rezoning or development controls shall not impose any new governmental constraints to the development of housing unless those increased constraints are offset by the removal or reduction of other constraints." If San Francisco wishes to establish new governmental constraints to housing production (such as making new developments ineligible for the waivers and protections offered by State Density Bonus Law), it must concurrently reduce other constraints to a degree that maintains the overall viability of new residential construction, "as determined by an analysis prior to the rezoning enactment" that assess projects' "financial feasibility." Pursuing the new constraints without offsetting them by reducing existing constraints, however, would violate the commitments in housing element programs 7.1.1 and 8.1.6 and hence violate the Housing Element Law.

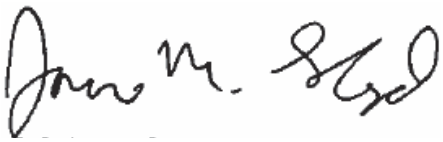
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New multifamily housing in San Francisco a public benefit: it will help satisfy demand for housing near jobs and transit, thereby reducing displacement pressure; and it will also cut down on transportation-related greenhouse gas emissions by providing housing in a major metro area, as opposed to farther-flung regions in the state (and out of state). CalHDF therefore urges the City to follow through on the commitments in its housing element, as the law requires, and obey state law in drafting and enforcing its land use regulations.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Family Zoning Plan:
Economic Impact Report

Office of the Controller
Office of Economic Analysis

Items 250700 & 250701
October 29, 2025

Introduction

- Two proposed ordinances would change zoning controls to permit more housing on a large segment of San Francisco, particularly on the western half of the city. They implement changes to the Housing Element of the City's General Plan, a planning document whose revisions were adopted in 2023.
- The Ordinance in file #250700, the Zoning Map Amendment, would generally raise allowable building heights along commercial corridors and transit lines, to permit mid-rise and some high-rise development.
- The Ordinance in file #250701 implements the Housing Choice-San Francisco program, which offers an alternative to the State Density Bonus program.
- The Office of Economic Analysis (OEA) has prepared this report because the proposed legislation may have a material impact on the city's economy. This report uses a model that estimates potential new development, in order to assess economic impact. That model is not a replacement for the City's estimates of realistic capacity under Government Code § 65583.2.

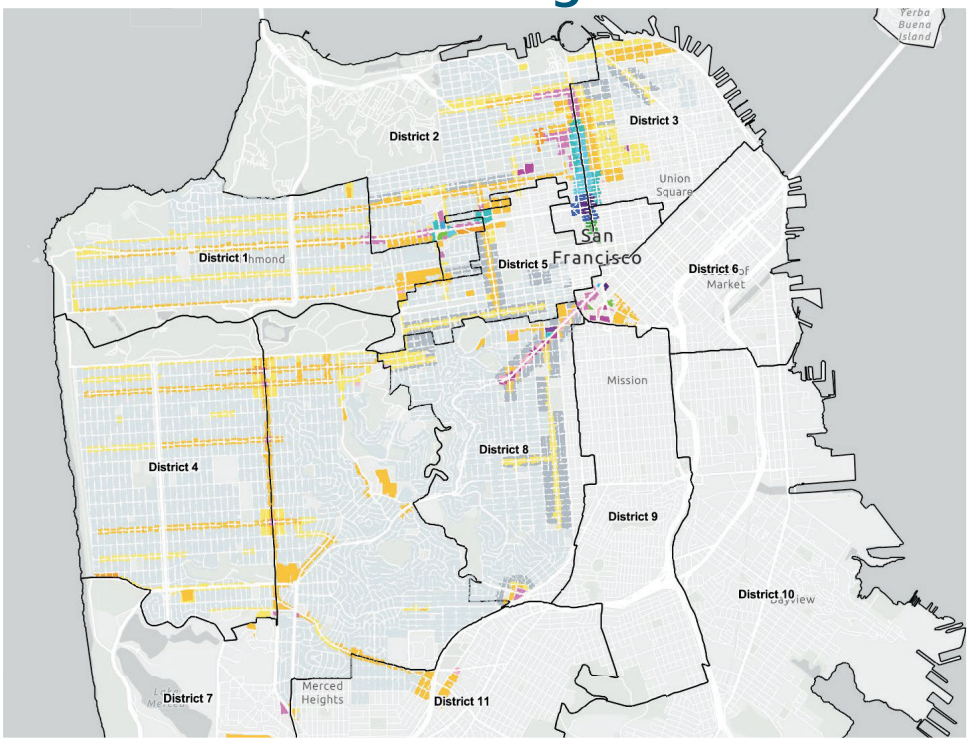
Zoning Map Amendment: Key Provisions

- The Zoning Map Amendment would make changes to allowable building heights and bulk, and/or zoning districts, in over 92,000 parcels in the city.
- The vast majority are residential parcels, whose allowable heights would either remain at 40 feet, or rise to 50 or 65 feet.
- On these and many other rezoned parcels, the Housing Choice San Francisco program (described on the next page) relaxes existing controls on the number of housing units allowed on a parcel.
- Allowable heights are generally increased to 65 to 85 feet along many commercial corridors, with development along wider streets near transit stations or major lines increased to 85 feet.
- Heights above 140 feet are allowed on certain streets that currently allow high-rise development or have larger parcels, at key intersections, and near certain major transit routes and stations. The map on page 5 provides additional details.

Housing Choice San Francisco – Key Provisions

- The Housing Choice San Francisco program, or "Local Program", gives developers an alternative to the State Density Bonus.
- Many of the rezoned residential parcels are too small to be eligible for the State Density Bonus, but may achieve greater density through the use of the Local Program.
- Local Program users also gain benefits associated with housing unit mix, methods of complying with inclusionary housing requirements, rear-yard and setback requirements, broad code flexibility, and certain process changes.
- The ordinance has several other provisions, including limiting the maximum size of new residential units, reducing allowable parking, and restricting new curb cuts. These policy changes are not considered in this report.
- Additionally, the proposed ordinance gives displaced businesses the right to relocate anywhere in the city where their activity is permitted by zoning, without a conditional use permit, and waives development impact fees associated with the relocation.

Details of the Rezoning



The map to the left, from the City Planning department, indicates which parcels in the city will be rezoned, and to which heights. It reflects the plan as of July.

Gray parcels will be zoned for low-rise, 40-50 feet housing developments. This includes single-family residential zones, within which greater density will be permitted via the Local Program.

Yellow and orange parcels will be upzoned to mid-rise development of 65-105 feet.

Pink and purple parcels will have height limits ranging from 120-180 feet, and the blue and green parcels will be upzoned for high-rise development, of 240 feet or greater.

The Rezoning and the Regional Housing Needs Assessment

- Each jurisdiction in California is required to have its Housing Element be certified by the State's Housing and Community Development Department.
- Certification involves, among other things, ensuring that the City has the zoning capacity to meet the city's obligations under the State's Regional Housing Needs Assessment (RHNA).
- RHNA is a Statewide planning process, in which future needs are forecasted for metropolitan areas, and then allocated to the individual cities and counties that administer land use planning.
- In San Francisco's case, the RHNA obligation requires the City to have realistic capacity for approximately 82,000 new housing units, at different economic levels, within an 8-year planning period ending in 2031.
- Of this 82,000 unit requirement, the City must create capacity for approximately 36,000 units.

Substitutions and Proposed Amendments

- On September 30, a new version of #250700 was substituted by Mayor Lurie, which made relatively minor zoning changes on a number of parcels. This analysis reflects those changes.
- On October 21, Supervisor Melgar proposed an amendment that would prohibit the use of the Local Program on any parcel containing more then two existing housing units, which would involve the demolition of a unit subject to rent control.
- Also on October 21, Supervisor Sauter introduced an amendment that creates incentives for developers to replace lost commercial space.
- As the language of these two amendments was made public less than one week ago, this report does not attempt to model their economic impact.

Economic Impact Factors

- When the City relaxes zoning controls, by reducing density restrictions or increasing allowable heights, more development projects will become financially feasible, and the supply of housing in the city will rise.
- This increased supply will put downward pressure on housing prices in the city. Cheaper housing benefits city residents who move within the city, and also makes San Francisco more affordable for new arrivals.
- The development of new housing also stimulates investment and employment in construction and related industries.
- The population growth associated with new housing also stimulates the local economy, by expanding the numbers of workers and consumers.
- On the other hand, the limited amount of vacant lots in the city means that new housing generally involves the loss of existing buildings, including both residential and commercial properties. This can impose relocation and other costs on residential and commercial tenants.

Estimating the Likelihood of New Housing Development

- The amount of new housing that the rezoning will produce is an important contributor to its economic impact. To estimate this, OEA refined a statistical model that it has used since 2016 to estimate the impact of policy changes on housing production in the city[1].
- The model was the result of statistical analysis of housing production in San Francisco over the 2004-2024 period. Technical details on the model are provided in the Appendix.
- The first part of the model estimates the likelihood that multifamily housing will be developed on a given parcel, in a given year. The statistical analysis found that a parcel is more likely to develop when:
  - it has smaller existing buildings (or is vacant), and is located closer to downtown.
  - its zoning allows for a greater height, makes it eligible for the State Density Bonus, and does not restrict the number of units that may be constructed.
  - housing prices are relatively high, and construction costs are relatively low, compared to other years.

Estimating the Number of Units Produced

- The second part of the model estimates the number of units that will be produced when a parcel does develop housing. Based on past experience, the statistical analysis found that a parcel developing housing will produce more units when:
  - its land area and allowable maximum height are greater;
  - it is eligible for the State Density Bonus;
  - its zoning does not restrict the number of units that may be built.
- The OEA used the first part of the model to estimate the probability that housing will be built on a parcel over the next twenty years[2]. That probability was multiplied by the estimate of housing units from the second part, to create an expected number of housing units generated for each parcel over twenty years. When this is summed across all parcels, a citywide housing total is generated.
- This method was used to create estimates of housing production under the existing zoning, and the proposed rezoning. The difference is the estimate of housing that could be produced as a result of the proposed zoning changes.

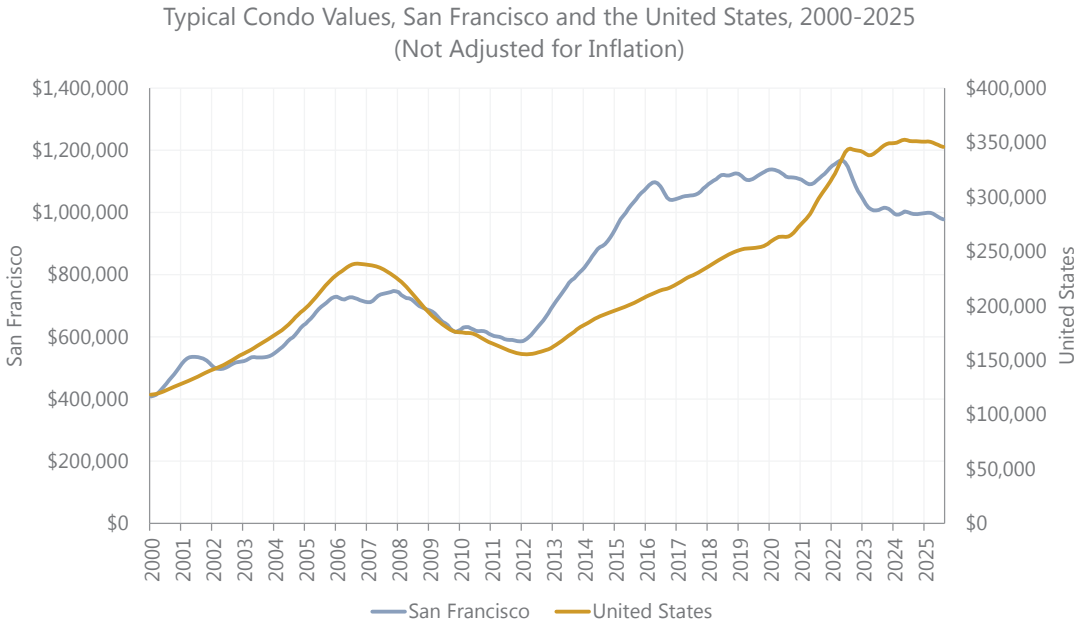
Limitations of the Housing Development Model

- The housing development model can forecast future housing development based on the city's past experience, but important caveats must be made.
- Because of data availability, not every factor that affects housing production could be included. Missing data may include features of the parcel itself, or policies that may have changed over the 2004-24 period, or vary within the aggregated zoning designations used by the model.
- Limited data also prevents the analysis of fine-grained policy changes in the proposed rezoning, such as restrictions on unit size and mix.
- Several new City and State policies that were intended to encourage housing production have been enacted in recent years, such as, for example, the City's 2023 Housing Production Ordinance (0248-23). The model may be unable to properly assess the impact of these policies in the future.
- Despite these limitations, the OEA believes this approach is well-suited to estimating housing production, for the purposes of economic impact reporting.

Future Housing Market Scenarios

- As noted earlier, the amount of housing that will be produced as a result of the rezoning, and its economic impact, will depend on future housing market conditions. This creates an additional level of uncertainty in the forecasts.
- Gauging future market conditions is further complicated by changes in the city's housing market since the COVID-19 pandemic, as described on the next page.
- To understand the scope of what could potentially happen, the OEA created two future scenarios for housing prices and costs in San Francisco.
- In a high-growth scenario, San Francisco's housing prices, relative to the U.S., return to pre-COVID levels by 2030, and grow at the city's pre-COVID rate after that. Construction costs are assumed to grow at the same rate as inflation.
- In a low-growth scenario, San Francisco's post-COVID relative housing prices are assumed to represent a "new normal," and housing prices are assumed to grow only at a national average level over the next twenty years. Construction costs are also assumed to grow at the same rate as inflation.

San Francisco and U.S. Housing Price Trends Since 2000



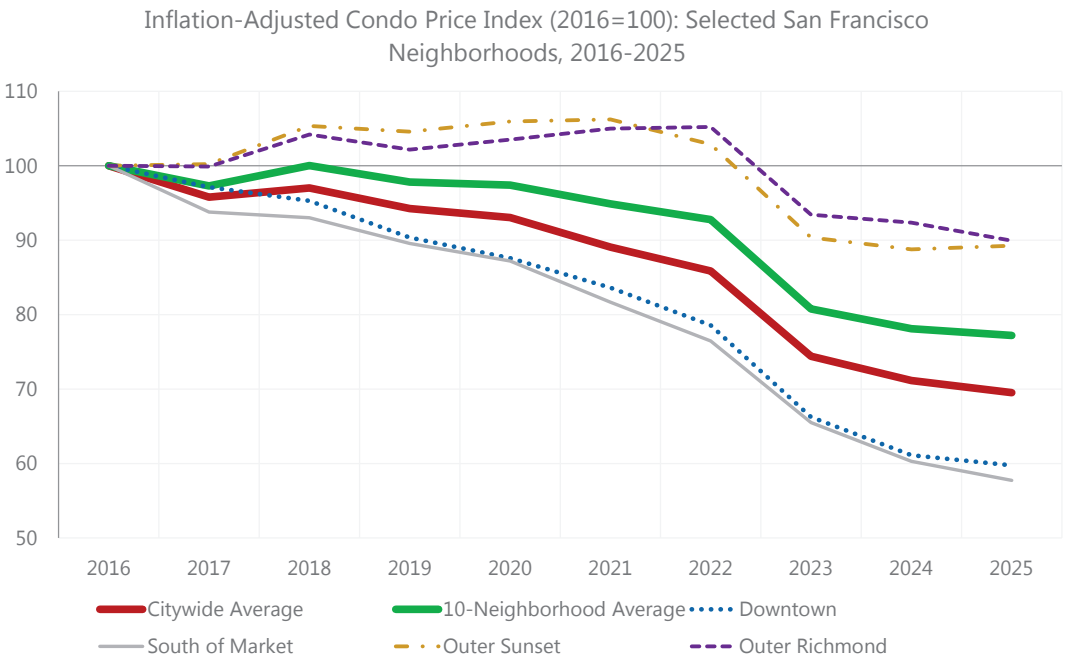
While San Francisco's housing has always been expensive, during the 2010s, average San Francisco condo prices rose much faster than the rest of the U.S., to as much as 5 times the typical U.S. price.

Since 2020, however, San Francisco condo prices have declined, despite rising inflation and rising U.S. condo prices. Adjusted for inflation, typical San Francisco condo prices in 2025 are 25% lower than they were in 2019.

Among other factors, the increase in remote office work during COVID has reduced the value of a residence near large office employment centers like downtown San Francisco.

Source: Zillow. Data retrieved October 1, 2025.

Housing Price Trends Within the City



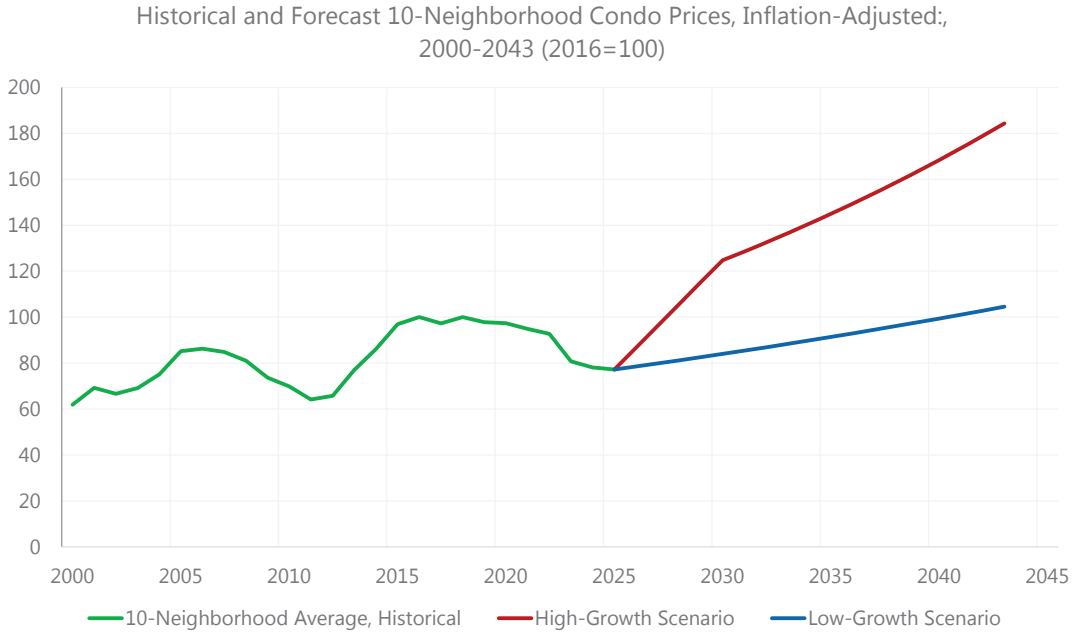
Source: Zillow. Data retrieved October 1, 2025.

The reduced value of a downtown location has also shifted multifamily price patterns within the city.

Condos in neighborhoods like Downtown and South of Market have experienced inflation-adjusted price drops of more than 40% since 2016, while the Richmond and Sunset have fallen by far less.

Because most multifamily housing in the city is near downtown, but most of the proposed rezoning is not, the use of a citywide average condo price index is inappropriate. This analysis uses an average price across the 10 Zillow neighborhoods most affected by the zoning, which is somewhat higher than the citywide average.

High and Low Growth Scenario Price Forecasts

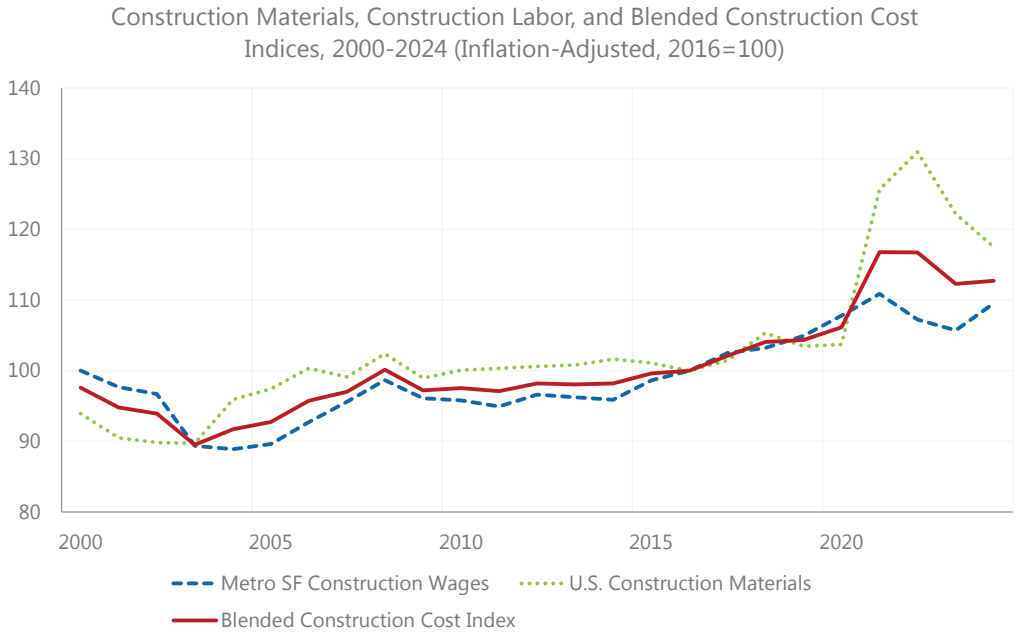


Our high-growth scenario assumes that San Francisco's housing prices, relative to the U.S., return to pre-pandemic levels by 2030, and then grow at the city's long-term average rate until 2045. This implies a rapid growth in housing prices over the next five years, of over 10% per year.

In the low-growth scenario, the post-COVID housing market represents a new normal, and San Francisco housing prices are assumed to grow only at the U.S. long-term rate at 1.8% per year, in inflation-adjusted dollars. Under this assumption, San Franciso housing prices would not recover to their pre-COVID peak, in inflation-adjusted dollars, until 2041.

Source: Zillow. 10 Neighborhoods are Buena Vista, Polk Gulch, Inner Sunset, Marina, Mission, North Waterfront, Outer Sunset, Outer Richmond, Inner Richmond, and Western Addition.

Construction Cost Trends and Scenarios



Source: Bureau of Economic Analysis; U.S. Census Bureau, "Quarterly Workforce Indicators

The housing development model uses two measures of construction costs: materials cost and local construction industry wages. They are blended into a single index for modeling purposes. Details are in the Appendix.

The cost of construction materials and local wages have grown faster than overall inflation, particularly in the last few years. In 2024, real construction materials costs were 18% higher, and real local wages were 10% higher, than they were in 2016.

In both the high-growth and low-growth scenarios, the blended index is assumed to grow at 0% (after inflation) over the 2026-2045 period. This reflects an assumption that both labor and material costs inflation will revert to the broader rate of inflation in the long term.

Housing Production Forecasts Under Current Zoning

Planning District	Historic, 2000-24	Low-Growth Scenario Forecast, 2026-45	High-Growth Scenario Forecast, 2026-45
Buena Vista	975	43	90
Central	72	192	390
Downtown	289	112	230
Ingleside	0	58	120
Inner Sunset	123	28	59
Marina	131	126	263
Mission	187	197	406
Northeast	449	136	283
Outer Sunset	15	16	33
Richmond	0	23	47
South Central	0	6	11
Western Addition	997	658	1,265
Total	3,238	1,594	3,199

Source: For historic housing production, San Francisco Planning Department

Generally, the housing development model forecasts that the current zoning will produce fewer units in the next 20 years than the numbers of units that were produced in the last 20 years.

The table to the left only covers the portion of each planning district that is in the proposed rezoning area. In total, under the current zoning, the model forecasts 1,594 or 3,199 units under the low- and high-growth forecasts, respectively, while 3,238 units were built in the same areas over the 2000-2024 period.

On the next two pages, the model's forecasts of the additional housing created by the proposed zoning is discussed.

Forecast Net Effect of the Zoning

- As shown in the table below, under the low-growth and high-growth scenarios described earlier, the rezoning would lead to 8,504 and 14,646 additional housing units, beyond what would be produced under current zoning, over the next 20 years.

Low Growth Scenario	Units
20-Year Housing Production, Existing Zoning	1,594
20-Year Housing Production, Proposed Rezoning	10,098
Effect of Proposed Rezoning	8,504

High Growth Scenario	Units
20-Year Housing Production, Existing Zoning	3,199
20-Year Housing Production, Proposed Rezoning	17,845
Effect of Proposed Rezoning	14,646

Summary by Current Zoning District

		Low-Growth			High-Growth		
Current Zoning[3]	Number of Parcels	Average Housing Likelihood, Current	Average Housing Likelihood, Proposed	Change in Housing Units	Average Housing Likelihood, Current	Average Housing Likelihood, Proposed	Change in Housing Units
RH1	43,009	0.001%	0.205%	798	0.003%	0.446%	1,731
RH2	26,486	0.002%	0.259%	576	0.005%	0.565%	1,250
RH3_RM1	13,741	0.009%	0.347%	547	0.018%	0.756%	1,186
Office/Commercial	114	0.570%	0.780%	48	1.185%	1.639%	104
Public	239	0.060%	1.450%	3,483	0.122%	2.560%	4,814
Density-Restricted Multifamily	7,079	0.336%	0.490%	3,007	0.674%	1.026%	5,467
Form-Based Multifamily	2,053	0.725%	0.725%	46	1.502%	1.502%	94
Total	92,721			8,504			14,646

The table to the left breaks out the results by current zoning. It illustrates how many rezoned parcels are in the RH-1, RH-2, and RH-3 or RM-1 residential zones, primarily in the western side of the city. These areas will see a substantial increase in the likelihood of developing housing over the next 20 years, but the chances are still small, so those 83,000+ parcels are only forecast to produce about additional 4,200 housing units by 2045, in the high growth scenario.

Fewer Public parcels (generally owned by the City or SFUSD) are larger, and more likely to develop housing through the rezoning, though this depends on the owner's decisions.

Estimating the Loss of Existing Residential Units

- To evaluate the economic impact, OEA calculated the net increase in housing units.
- In the low-growth scenario, 463 more units would be lost under the proposed zoning than under current zoning, over the 20-year forecast period. In the high-growth scenario, 1,031 more housing units would be lost. These losses represent a 6-8% of the housing units gained as a result of the rezoning. Amendments proposed on October 20th may reduce these losses, along with overall housing production.
- The loss of existing housing slightly dampens the housing price reductions associated with the rezoning, and may impose financial harms on existing tenants. City and State law heavily restricts, but does not prohibit, the eviction of tenants for the purpose of demolition, or the demolition of rent-controlled housing. These events have been quite rare in recent decades. If this occurs, tenants are entitled to relocation payments.
- Without any way to meaningfully estimate the number of evictions or demolitions of rent-controlled units, or the financial impact on tenants, this report does not attempt to quantify these potential costs.

Impacts on Housing Prices

- The responsiveness of housing prices to increases in housing supply is a function of price elasticities of supply and demand, which the OEA has estimated in past research[4].
- The elasticities imply that the proposed rezoning would lead to a -2.5% to -4.2% change in housing prices in the city, depending on the scenario. For context, those percentages are also expressed in terms of current housing prices and apartment rents.

	Low Growth Scenario	**High Growth Scenario**
Net Change in Housing Supply (units produced less demolitions)	8,041	13,615
Percentage Change in Housing Supply[5]	2.0%	3.4%
Price Elasticity of Demand	-0.7	-0.7
Price Elasticity of Supply	0.1	0.1
Percent change in housing prices	-2.5%	-4.2%
Corresponding change in condo prices[6]	-$24,500	-$41,600
Corresponding change in annual apartment market rents[7]	-$903	-$1,529

Estimating Relocation and Disruption Costs

- To account for the impact on commercial businesses, OEA estimated potential displacement costs. Details are provided in the Appendix.
- Displaced businesses are estimated to occupy commercial space ranging from approximately 1.5 to 2.6 million square feet, depending on the scenario. This displacement would occur over twenty years, and it is highly likely that the rezoning would lead to an increase in the amount of commercial space in the city.
- Annual business disruption and relocation costs range from $16 to $28 million, in today's dollars.

	Low Growth	High Growth
Loss of occupied commercial space (million sf)	1.5	2.6
Disruption-relocation cost/sf	$190	$190
Annual disruption/relocation cost (2025 $ million)	$16	$28

REMI Economic Impact Simulation

- Based on the economic impact factors described earlier, the OEA used the REMI model to measure the net economic impact of the changes associated with the high and low growth scenarios to the city's economy over the 2026-2045 period:
  - An increase in the city's residential capital stock of $8.0 billion (low growth) to $13.5 billion (high growth) in today's dollars, representing the investment associated with the new units forecast under the two scenarios. These figures are calculated by multiplying the net increase in units by average prices.
  - A reduction in citywide housing prices, reaching 2.5% (low growth) and 4.2% (high growth) by 2045.
  - Annual business disruption and relocation costs for retail businesses of $16 million (low growth) and $28 million (high growth) in today's dollars, until 2045.

Economic Impact Assessment

- In the low-growth scenario, the city's GDP would be $560 million larger, in today's dollars, on average over the 2026-45 period. Total employment in the city would be approximately 3,000 more than under the current zoning, on average over the period.
- In the high-growth scenario, the city's GDP growth would be $940 million larger than under current zoning, in 2025 dollars. Employment would be about 5,000 higher.
- Employment gains are expected in every sector, but would be most heavily concentrated in the construction, health care, real estate, and accommodations and food services sectors.
- Despite the displacement of businesses, retail trade is forecast to grow as a result of the population and economic growth created by the proposed rezoning, adding about 210 jobs in the low-growth scenario and about 350 jobs in the high-growth scenario.
- Like most major policies, the proposed rezoning involves benefits and costs. Our analysis suggests the proposed rezoning's positive impact on the city's economy, from lower housing prices and construction, outweighs the negative impact from displaced businesses, by a factor of approximately 22:1.

Conclusions

- The context for housing development in San Francisco has changed profoundly in the past several years. Since 2019, after adjusting for inflation, condo prices in San Francisco have dropped by 25%, while our blended construction cost index has risen by 8%.
- Given this starting point, an expansive rezoning effort, like the proposed Family Zoning plan, will be challenged to match the 2010s levels of new housing development in the city, even under an optimistic high-growth scenario.
- Nevertheless, under both scenarios considered in this report, the proposed rezoning would lead to a significant increase in the city's housing supply, and have broadly positive effects on housing prices and the city's broader economy. The benefits of new residential investments and lower housing prices are projected to outweigh the costs of business interruption and displacement by a factor of roughly 22:1.
- If market conditions were such that the 36,000 unit target was achieved, as a result of the rezoning, the economic impact on the city would likely be significantly more positive than the estimates in this report.

Footnotes

1. See, for example, Inclusionary Housing Working Group: Preliminary Report September 2016.
2. Three large parcels were excluded from the analysis: Laguna Honda Hospital, and the USF Main and Lone Mountain campuses. While all three parcels receive height increases in the proposed rezoning, their size and unique uses makes them unsuitable for the model. If the model could accurately estimate the amount of housing likely to occur on those parcels, the total housing estimate reported in this report would be larger.
3. These are the aggregate zoning classifications used by the model. See the Appendix for details.
4. See Potential Effects of Limiting Market-Rate Housing in the Mission.
5. Assuming 406,000 housing units in the city.
6. Based on Zillow's 2025 average condo prices for San Francisco.
7. Based on 2025 average apartment asking rents, from ApartmentList.

Appendix

- Housing Development Model
  - Methodology
  - Data sources
  - Model coefficients and performance
  - Scenario Inputs
  - Zoning District Classification
  - Logic of Applying the Model to the Proposed Rezoning
- Estimates of Business Interruption and Relocation Costs

Appendix: Housing Development Model: Methodology

- The housing development model is a two-stage step model. The first stage is a logistic regression, covering every parcel in the city, except those subject to a development agreement, over the 2004-2024 period.
- The dependent variable of the logistic regression is 1 if the parcel produced housing in a given year, and 0 otherwise. Parcels that produce housing in a given year were removed from the dataset for subsequent years. Independent variables, reflecting existing land use, market conditions, and zoning, are listed on the next page.
- The second stage is a regression model including all parcels that produced multifamily housing with more than 10 units, over the 2004-24 period. The dependent variable is the number of units produced on the parcel, and the independent variables are the parcel's "building envelope" (its area multiplied by its allowable height), and two interaction variables: the building envelope times a dummy indicating if the parcel was eligible for the State Density Bonus in that year, and the building envelope times a dummy indicating if the parcel was subject to density-restricted zoning in that year. The intercept of the model was fixed at zero.

Appendix: Housing Development Model: Methodology

- The models' coefficients were used in a forecast that calculated the log-likelihood of development for each rezoned parcel, in each of the forecast years 2026-2045, using the site and zoning information, and the price and cost assumptions for each year (shown on the next page). The log-likelihoods were converted into annual probabilities, from which a 20-year probability of development was calculated.
- The model coefficients were also used to calculate a units estimate; the 20-year probability times the units estimate is the expected number of units produced on that parcel in the 20-year forecast period.
- The forecast model was run for both the current and the proposed zoning. See the section "Logic of Applying the Model to the Proposed Rezoning" for more details.
- Three parcels were excluded from the forecast: Laguna Honda Hospital, the University of San Francisco Main Campus, and the University of San Francisco Lone Mountain Campus. While some housing may be built on those parcels in the forecast period, the model is not well-suited for large parcels with unique uses like these.

Appendix: Housing Development Model: Data Sources

Variable Description	Variable	Data Source
Height limit for site in ft	Height_Ft	Planning Department, Zoning Districts
Area for lot in 1000 sq ft	Area_1000	Planning Department, Land Use Database 4/16/25
Extisting building square footage in 1000 sq ft	Bldg_SqFt_1000	Planning Department, Land Use Database 4/16/25
Residential Existing Use using ResUnits (Dummy)	Res_Dummy	Planning Department, Land Use Database 4/16/25
Historic Status for Parcel (Dummy)	Historic	Planning Department, Land Use Database 4/16/25
Real Construction Cost Variable, 2 years prior	Construc_Cost_Real	a 60/40 average of Real Construction Materials PPI and Real San Francisco MSA Construction Wages, 2016=100
10-Neighborhood Housing Price Index (Zillow), Real, 2 years prior	Zillow_Price_Real	SF real condo prices per Zillow, 2016=100
Dummy indicating eligibility for State Density Bonus, 2016 forward	SDB_2016_5Plus	Calculated from Zoning Districts
Zoning dummy: Office/Commercial	zp_OfficeComm	Planning Department, Zoning Districts
Zoning dummy: Density Restricted Multifamily, RTO = Form Based	zp_DRMulti_RTO	Planning Department, Zoning Districts
Zoning dummy: Form Based Multifamily, RTO = form based	zp_FBDMulti_RTO	Planning Department, Zoning Districts
Zoning dummy: Industrial / Production, Distribution & Repair	zp_PDRInd	Planning Department, Zoning Districts
Zoning dummy: Public/Open Space	zp_Public	Planning Department, Zoning Districts
Zoning dummy: Redevelopment Area	zp_Redev	Planning Department, Zoning Districts
Zoning dummy: Residential 2-Family (2 Units per Lot)	zp_RH2	Planning Department, Zoning Districts
Zoning = Residential 3-Family or Res Mixed (1/800 sqft)	zp_RH3_RM1	Planning Department, Zoning Districts
Planning District dummy variables	DIST_<District Name>	Planning District from Assessor's Secured Roll DB

Appendix: Logistic Regression Coefficients

Variable Description	Variable	Coeff	StdErr	WaldChiSq	Prob>Chi Sq
Intercept	Intercept	(1.6226)	1.2829	1.5998	0.2059
Height limit for site in ft	Height_Ft	0.0017	0.0007	4.9693	0.0258
Area for lot in 1000 sq ft	Area_1000	0.0049	0.0009	30.6563	0.0000
Envelope Area in 1000 sq ft (area/1000*ht/10)	Env_1000_Area_Height	0.0002	0.0001	5.0369	0.0248
Extisting building square footage in 1000 sq ft	Bldg_SqFt_1000	(0.0023)	0.0007	10.7241	0.0011
Residential Existing Use using ResUnits (Dummy)	Res_Dummy	(0.8231)	0.1222	45.3669	0.0000
Historic Status for Parcel (Dummy)	Historic	(1.0378)	0.1271	66.6847	0.0000
Real Construction Cost Variable	Construc_Cost_Real	(0.0992)	0.0129	58.8929	0.0000
SF Housing Price Index (Zillow), Real	Zillow_Price_Real	0.0143	0.0053	7.1326	0.0076
Dummy for State Density Bonus, 5+ Unit Sites, 2016 forward	SDB_2016_5Plus	0.6303	0.1608	15.3724	0.0000
Zoning = Office/Commercial	zp_OfficeComm	4.2634	0.4873	76.5337	0.0000
Zoning = Density Restricted Multifamily, RTO = Form Based	zp_DRMulti_RTO	4.2450	0.4523	88.0989	0.0000
Zoning = Form Based Multifamily, RTO = form based	zp_FBDMulti_RTO	5.0508	0.4640	118.4768	0.0000
Zoning = Industrial / Production, Distribution & Repair	zp_PDRInd	3.4115	0.4790	50.7257	0.0000
Zoning = Public/Open Space	zp_Public	1.2491	0.8385	2.2190	0.1363
Zoning = Redevelopment Area	zp_Redev	4.5361	0.4999	82.3213	0.0000
Zoning = Residential 2-Family (2 Units per Lot)	zp_RH2	0.2674	0.6672	0.1607	0.6885
Zoning = Residential 3-Family or Res Mixed (1/800 sqft)	zp_RH3_RM1	1.3187	0.6064	4.7289	0.0297

Appendix: Logistic Regression Coefficients (Continued)

Variable Description	Variable	Coeff	StdErr	WaldChiSq	Prob>Chi Sq
District = South Bayshore	DIST_SBayshore	(1.4824)	0.3179	21.7380	0.0000
District = Bernal Heights	DIST_BernalHts	(1.7011)	0.6087	7.8100	0.0052
District = South Central	DIST_Scentral	(1.7307)	0.3867	20.0267	0.0000
District = Central	DIST_Central	(1.1523)	0.3353	11.8102	0.0006
District = Buena Vista	DIST_BuenaVista	(2.5369)	1.0188	6.2010	0.0128
District = Northeast	DIST_Northeast	(1.4171)	0.2539	31.1439	0.0000
District = Western Addition	DIST_WestAddition	(0.6831)	0.2362	8.3630	0.0038
District = South of Market	DIST_SOMA	(0.0756)	0.1903	0.1579	0.6911
District = Inner Sunset	DIST_InnerSunset	(1.6187)	0.4882	10.9939	0.0009
District = Richmond	DIST_Richmond	(2.8019)	0.5355	27.3716	0.0000
District = Ingleside	DIST_Ingleside	(1.8670)	0.4925	14.3711	0.0002
District = Outer Sunset	DIST_OuterSunset	(2.6147)	0.6098	18.3867	0.0000
District = Marina	DIST_Marina	(1.2492)	0.3253	14.7457	0.0001
District = Mission	DIST_Mission	(1.0938)	0.2380	21.1176	0.0000

Omitted Variables for Groups of Dummy Variables:

Omitted zoning = RH1

Omitted district = Downtown

Appendix: Units Regression Coefficients

Variable Description	Variable	Coeff	St Error	T-Stat
Simple building envelope (area/1000 * ht/10)	Env_1000_Area_Height	0.4252	0.0159	26.72
State Density Bonus * Simple Bldg Envelope (5+ Unit Sites, 2016 forward)	SDB_2016_5Plus_EnvFull	0.4385	0.0389	11.28
Simple Bldg Envelope only if density-restricted	Zoning_DR_EnvFull	(0.1601)	0.0174	(9.22)

Note: Model removes largest 5% (Positive and Negative) residual outliers

Appendix: Model Performance

Logistic Regression	
Number of Observations	3,369,573
Number with Dependent Variable = 1	422
Pseudo R-Square	0.000611
Max Rescaled R-Square	0.244596

Units Regression	
Number of Observations	383
R-Sq	0.867779
Adj R-Sq	0.866735
Dependent Mean Value	81.87206
Standard Error of Regression	48.40184

Appendix: Zoning Classifications

- The table below shows the correspondence between the City's zoning districts, and the aggregate zoning variables in the model.

Zoning Variable	Zoning Districts
zp_RH1	C-2/RH-1(D); RH-1(D)/C-2; C-M/RH-1; M-1/RH-1; NC-1/RH-1; NC-1/RH-1/RH-2; NC-2/RH-1; NC-2/RH-1(D); NC-3/RH-1; NCD/RH-1; NCD/RH-1(D); NC-S/RH-1; NCT-OCEAN/RH-1(D); NCT/RH-1(D); P/P-W/RH-1; P/RH-1; P/RH-1(D); P/RH-1/RH-1(D); P/RH-1/RH-2; RH-1; RH-1(D); RH-1(D)/NC-2; RH-1(D)/RH-1; RH-2/RH-1; RH-2/RH-1(D); RH-1(D)/RH-2; RH-1(D)/RM-1; RH-1(S); RH-1/C-M; RH-1/M-1; RH-1/NC-1; RH-1/NC-2; RH-1/NC-3; RH-1/NC-S; RH-1/RH-1(D); RH-1/RH-2; RH-1/RH-2/RM-1; RH-1/RM-1; RM-1/RH-1; RH-3/RH-1
zp_RH2	NC-1/RH-1/RH-2; P/RH-1/RH-2; RH-2/RH-1; RH-2/RH-1(D); RH-1(D)/RH-2; RH-1/RH-2; RH-1/RH-2/RM-1; M-1/RH-2/RM-1; MUR/RH-2; NC-1/RH-2; NC-2/RH-2; NC-3/RH-2; NCD/RH-2; NC-S/RH-2; NCT-GLEN PARK/RH-2; NCT-OCEAN/RH-2; NCT/RH-2; P/RH-2; P/RM-1/RH-2; RH-2; RH-2/NC-1; RH-2/NC-2; RH-2/NC-3; RH-2/RH-3; RH-2/RM-1; RM-1/RH-2; RH-2/RM-2; RM-2/RH-2; RH-2/RM-3; RM-3/RH-2; RH-3/RH-2
zp_RH3_RM1	RH-1/RH-2/RM-1; M-1/RH-2/RM-1; P/RM-1/RH-2; RH-2/RH-3; RH-2/RM-1; RM-1/RH-2; RH-3/RH-2; RH-1(D)/RM-1; RH-1/RM-1; RM-1/RH-1; RH-3/RH-1; C-2/RH-3; C-2/RM-1; C-2/RM-1/RM-4; C-M/RM-1; HP-RA/RM-1; M-1/RM-1; M-2/RH-3; NC-1/RM-1; RM-1/NC-1; NC-2/RH-3; NC-2/RM-1; NC-3/RH-3; NC-3/RM-1; NCD/RH-3; NCD/RH-3/UPR MARKET; NCD/RH-3/UPR MARK; NCD/RH-3/VALENCIA; NCD/RM-1; NCD/RM-1/SACRAMENTO; NCD/SACRAMENTO ST; NCD/SACRAMENTO/RM-1; NCD/RM-1/SACRAMEN; NCT-DIVISADERO/RH-3; NCT-DIVISADERO/RM-1; NCT/RH-3; NCT/RM-1; P/PM-R/RM-1; P/RH-3; P/RM-1; PM-MU2/PM-OS/PM-R/RM-1; PM-R/RM-1; RH-3; RH-3/C-2; RH-3/HAYES; RH-3/M-2; RH-3/NC-2; RH-3/RM-1; RM-1/RH-3; RH-3/RM-2; RM-2/RH-3; RH-3/RM-3; RM-3/RH-3; RH-3/RSD; RH-3/VALENCIA; RM-1; RM-1/C-M; RM-1/C-M/M-1; RM-1/NC-3; RM-1/RM-2; RM-1/RM-3; RM-1/RM-4; RM-1/SACRAMENTO
zp_OfficeComm	C-2/RH-3; C-2/RM-1; C-2/RM-1/RM-4; C-M/RM-1; RH-3/C-2; RM-1/C-M; RM-1/C-M/M-1; C-2/RH-1(D); RH-1(D)/C-2; C-M/RH-1; RH-1/C-M; C-2; C-2/M-1; C-2/M-1/P; C-2/P; C-3-G; C-3-G/C-3-R; C-3-G/C-M; C-3-G/RC-4; C-3-O; C-3-O(SD); C-3-O(SD)/P; C-3-O(SD)/TB DTR; C-3-O/C-3-O(SD); C-3-O/C-3-R; C-3-O/C-3-S; C-3-O/C-3-S/P; C-3-O/TB DTR; C-3-R; C-3-S; C-3-S/P; C-M; C-M/M-1; CMUO; CMUO/MUR; CMUO/P; MUO; NCD/C-2; P/C-3-R; RM-3/C-2; RM-4/C-2; WMUO

Appendix: Zoning Classifications (Continued)

Zoning Variable	Zoning Districts
zp_DRMulti_RTO	NC-2/P; NC-3/P/RM-3; NCD/P; NC-S/P; P/NC-S; P/NC-2; P/RC-4; P/RM-2; P/RM-3; C-2/RM-1/RM-4; C-3-G/RC-4; NCD/C-2; RM-3/C-2; RM-4/C-2; NC-1/RM-1; RM-1/NC-1; NC-2/RH-3; NC-2/RM-1; NC-3/RH-3; NC-3/RM-1; NCD/RH-3; NCD/RH-3/UPR MARKET; NCD/RH-3/UPR MARK; NCD/RH-3/VALENCIA; NCD/RM-1; NCD/RM-1/SACRAMENTO; NCD/SACRAMENTO ST; NCD/SACRAMENTO/RM-1; NCD/RM-1/SACRAMEN; RH-3/HAYES; RH-3/NC-2; RH-3/RM-2; RM-2/RH-3; RH-3/RM-3; RM-3/RH-3; RH-3/RSD; RH-3/VALENCIA; RM-1/NC-3; RM-1/RM-2; RM-1/RM-3; RM-1/RM-4; RM-1/SACRAMENTO; NC-1/RH-1/RH-2; NC-1/RH-2; NC-2/RH-2; NC-3/RH-2; NCD/RH-2; NC-S/RH-2; RH-2/NC-1; RH-2/NC-2; RH-2/NC-3; RH-2/RM-2; RM-2/RH-2; RH-2/RM-3; RM-3/RH-2; NC-1/RH-1; NC-2/RH-1; NC-2/RH-1(D); NC-3/RH-1; NCD/RH-1; NCD/RH-1(D); NC-S/RH-1; RH-1(D)/NC-2; RH-1/NC-1; RH-1/NC-2; RH-1/NC-3; RH-1/NC-S; 24TH-MISSION; 24TH STREET- NOE VALL; 24TH-NOE; BROADWAY; BROADWAY NEIGHBORHOOD; C-2/RM-4; CASTRO STREET NEIGHBO; CASTRO; CCB; CRNC; CR-NC; CRNC/CVR; CR-NC/CVR; CRNC/RM-4; CVR; DTR/RC-4; FILLMORE; HAIGHT; HAIGHT STREET NEIGHBO; HAYES; HAIGHT STREET NEIGHBO; INNER CLEMENT; INNER CLEMENT STREET; INNER SUNSET; INNER SUNSET NEIGHBOR; M-1/NC-2; M-1/RM-2; M-1/RSD; NC-1; NC-1/RM-2; NC-1/RM-3; NC-2; NC-2/M-1; NC-2/NC-3; NC-3/NC-2; NC-2/RM-3; NC-2/RM-4; NC-3; NC-3/RC-4; NC-3/RM-3; NC-3/RM-4; NCD; NCD/; NCD/24TH STREET- NOE VALL; NCD/24TH STREET-; NCD/24TH-MISSION; NCD/24TH-NOE; NCD/24TH-NOE-VALLE; NCD/24TH-NOE-VALLEY; NCD/BROADWAY; NCD/BROADWAY NEIG; NCD/BROADWAY NEIGHBORHOOD; NCD/CASTRO; NCD/CASTRO STREET; NCD/CASTRO STREET NEIGHBO; NCD/EXCELSIOR OUTER MISSI; NCD/EXCELSIOR OUT; EXCELSIOR OUTER MISSI; NCD/FILLMORE; NCD/HAIGHT; NCD/HAIGHT STREET; NCD/HAIGHT STREET NEIGHBO; NCD/HAYES; NCD/HAYES NCT; NCD/HAYES NCT/RTO; NCD/INNER CLEMENT; NCD/INNER CLEMENT STREET; NCD/INNER SUNSET; NCD/INNER SUNSET NEIGHBOR; NCD/IRVING STREET NEIGHBO; NCD/IRVING STREET; NCD/IRVING; IRVING STREET NEIGHBO; NCD/JAPANTOWN NEIGHBORHOO; NCD/JAPANTOWN NEI; JAPANTOWN NEIGHBORHOO; NCD/JUDAH STREET NEIGHBOR; NCD/JUDAH; NCD/JUDAH STREET; JUDAH STREET NEIGHBOR; NCD/NC-1; NCD/NC-2; NCD/NC-3; NCD/NCT; NCD/NO BEACH; NCD/NORIEGA STREET NEIGHB; NCD/NORIEGA STREE; NCD/NORIEGA; NCD/NORTH BEACH NEIGHBORH; NCD/NORTH BEACH N; NCD/NORTH BEACH; NCD/NORTHBEACH; NCD/NORTH BEACH/RM-1; NCD/NORTHBEACH/RM-1; NCD/OUTER CLEMENT; NCD/OUTER CLEMENT STREET; NCD/OUTER CLEMENT STREET; NCD/PACIFIC; NCD/PACIFIC AVENU; NCD/PACIFIC/RM-3; NCD/PACIFIC;RM-3; NCD/PACIFIC AVENUE NEIGHB; NCD/POLK; NCD/POLK STREET N; NCD/POLK STREET NEIGHBORH; NCD/POLK/RC-3; NCD/POLK/RC-4; NCD/RC-3; NCD/RESIDENTIAL- HOUSE, O; NCD/RESIDENTIAL-; NCD/RM-2; NCD/RM-3; NCD/RM-3/PACIFIC; NCD/RTO; NCD/SACRAMENTO; NCD/SACRAMENTO STREET NEI; NCD/TARAVAL STREET NEIGHB; NCD/TARAVAL STREE; NCD/TARAVAL; NCD/UNION; NCD/UNION STREET; NCD/UNION STREET NEIGHBOR; NCD/UPPER FILLMORE NEIGHB; NCD/UPPER FILLMOR; NCD/UPPER FILLMORE; NCD/UPPERFILLMORE; NCD/UPPER MARKET STREET N; NCD/UPPER MARKET; NCD/UPR MARKET NC; NCD/UPR MARKET; NCD/UPR MARKET NCT; NCD/UPR MARKET NCT/; NCD/VALENCIA; NCD/WEST PORTAL; NCD/WEST PORTAL A; NCD/WEST PORTAL AVENUE NE; NCD/BAYVIEW; NCD/COLE VALLEY; NCD/CORTLAND AVENUE; NCD/GEARY BOULEVARD; NCD/GEARY BOULEVA; NCD/GEARY BOULEVARD/RH-2; NCD/GEARY BOULEVARD/RM-1; NCD/INNER BALBOA STREET; NCD/INNER BALBOA S; NCD/OUTER BALBOA STREET; NCD/ OUTER BALBOA STREET; NCD/OUTER BALBOA S; NCD/LOWER HAIGHT STREET; NCD/LOWER HAIGHT S; NCD/LOWER HAIGHT STREET/RH-3; NCD/LOWER POLK STREET; NCD/MISSION BERNAL; NCD/INNER TARAVAL STREET; NCD/INNER TARAVAL; NCD/SAN BRUNO AVENUE; NCD/LAKESIDE VILLAGE; NCD/LAKESIDE VILLAG; NC-S; NC-S/PM-R; NC-S/RM-3; NCT-DIVISADERO/RM-3; NCT/RM-3; NCT/RM-4; NO BEACH; OUTER CLEMENT; POLK; RC-3; RC-3/POLK; RC-3/RM-3; RC-4; RC-4/NC-3; RC-4/RH DTR; RC-4/RM-4; RED/SLR; RM-2; RM-2/M-1; RM-2/NC-1; RM-2/NC-2; RM-2/NO BEACH; RM-2/RM-3; RM-2/RM-4; RM-3; RM-3/NC-1; RM-3/NC-2; RM-3/NC-3; RM-3/NC-S; RM-3/RC-3; RM-3/RM-4; RM-4; RM-4/CR-NC; RM-4/NC-2; RM-4/NC-3; RM-4/RC-4; RSD; RSD/SLR; SACRAMENTO; SLR; SSO; UNION; UPR MARKET; VALENCIA; WEST PORTAL

Appendix: Zoning Classifications (Continued)

Zoning Variable	Zoning Districts
zp_Public	C-2/M-1/P; C-2/P; C-3-O(SD)/P; C-3-O/C-3-S/P; C-3-S/P; CMUO/P; P/C-3-R; P/RM-1/RH-2; P/PM-R/RM-1; P/RH-3; P/RM-1; PM-MU2/PM-OS/PM-R/RM-1; P/RH-1/RH-2; P/RH-2; P/P-W/RH-1; P/RH-1; P/RH-1(D); P/RH-1/RH-1(D); Remove; HP-RA/M-1/M-2/P; HP-RA/M-2/P; M-1/M-2/P; M-1/P; M-2/MB-OS; M-2/MB-RA/P; M-2/P; MB-O; MB-O/MB-RA; MB-OS; MB-RA/P; MUG/P; NC-2/P; NC-3/P/RM-3; NCD/P; NC-S/P; NCT/P; NCT-3/P; NCT-3/RTO; P; P/C-3-O(SD); P/M-1; P/M-2; P/MISS BAY S PL; P/MISS BAY S PLN; P/MUR; P/NC-S; P/NC-2; P/PDR-2; P/PM-OS; P/PM-OS/PM-R; P/P-W; P/RC-4; P/RM-2; P/RM-3; P/TB DTR; P/RTO-C; P, RTO-C; PM-CF; PM-CF/PM-OS; PM-CF/PM-OS/PM-R; PM-MU1/PM-OS; PM-MU2/PM-OS/PM-R; PM-OS; PM-OS/PM-R; PM-OS/PM-R/PM-S; PM-OS/PM-S; Public
zp_FBDMulti_RTO	DTR/RC-4; NCD/HAYES NCT; NCD/HAYES NCT/RTO; NCD/NCT; NCD/RTO; NCD/UPR MARKET NCT; NCD/UPR MARKET NCT/; NC-S/PM-R; NCT-DIVISADERO/RM-3; NCT/RM-3; NCT/RM-4; RC-4/RH DTR; RED/SLR; P/PM-R/RM-1; PM-MU2/PM-OS/PM-R/RM-1; MUG/P; NCT/P; NCT-3/P; NCT-3/RTO; P/MUR; P/PM-OS/PM-R; P/TB DTR; P/RTO-C; P, RTO-C; PM-CF/PM-OS/PM-R; PM-MU1/PM-OS; PM-MU2/PM-OS/PM-R; PM-OS/PM-R; PM-OS/PM-R/PM-S; C-3-O(SD)/TB DTR; C-3-O/TB DTR; CMUO/MUR; NCT-DIVISADERO/RH-3; NCT-DIVISADERO/RM-1; NCT/RH-3; NCT/RM-1; PM-R/RM-1; MUR/RH-2; NCT-GLEN PARK/RH-2; NCT-OCEAN/RH-2; NCT/RH-2; NCT-OCEAN/RH-1(D); NCT/RH-1(D); DTR; DTR/M-1; M-1/RH DTR; M-2/MR-MU; M-2/P70-MU; MB-RA/MR-MU; MR-MU; MUG; MUG/RED; MUR; NCT; NCT-DIVISADERO; NCT-FOLSOM; NCT-GLEN PARK; NCT-HAYES; NCT-HAYES/RTO; NCT-HAYES/RTO-1; NCT-MISSION; NCT-UPPER MARKET; NCT-UPPER MARKET;; NCT-UPPER MARKET/RH-2; NCT-UPPER MARKET/RH-3; NCT-OCEAN; NCT-SOMA; NCT/NCT-3; NCT/RCD; NCT/RED-MX; NCT/RTO; NCT/RTO-M; NCT/UMU; NCT-1; NCT-2; NCT-3; NCT-3/NCT-HAYES; RTO-1/NCT-3; RTO/NCT-3; P70-MU; PDR-1-D/UMU; PDR-1-G/UMU; PM-MU1; PM-MU1/PM-R; PM-MU2/PM-R; PM-MU2; PM-R; RCD; RED; RED-MX; RED-MX/WMUG; RH DTR; RH DTR/SB-DTR; RH DTR/TB DTR; RTO; RTO-1; RTO/NCT; RTO-1/RTO-C; RTO-C; RTO-M; SB-DTR; SPD; TB DTR; UMU; WMUG
zp_PDRInd	DTR/M-1; M-1/RH DTR; M-2/MR-MU; M-2/P70-MU; PDR-1-D/UMU; PDR-1-G/UMU; M-1/NC-2; M-1/RM-2; M-1/RSD; NC-2/M-1; RM-2/M-1; C-2/M-1/P; HP-RA/M-1/M-2/P; HP-RA/M-2/P; M-1/M-2/P; M-1/P; M-2/MB-OS; M-2/MB-RA/P; M-2/P; P/M-1; P/M-2; P/PDR-2; C-2/M-1; C-M/M-1; RH-1/RH-2/RM-1; M-1/RH-2/RM-1; M-1/RM-1; M-2/RH-3; RH-3/M-2; M-1/RH-1; RH-1/M-1; HP-RA/M-1; HP-RA/M-2; M-1; M-1/M-1; M-1/M-2; M-1/PDR-1-B; M-1/PDR-2; M-2; M-2 (MB); M-2/MB-RA; M-2/PDR-2; M-2/SLI; MISS BAY S PLN/M-2; MISS BAY S PL; MISS BAY S PLN; MISS BAY S PLN/M-; PDR-1; PDR-1/PDR-2; PDR-1-B; PDR-1-B/PDR-2; PDR-1-D; PDR-1-G; PDR-2; SALI; SLI; SLI/M-2
zp_Redev	HP-RA/M-1/M-2/P; HP-RA/M-2/P; M-2/MB-RA/P; HP-RA/M-1; HP-RA/M-2; M-2/MB-RA; MISS BAY S PLN/M-2; MISS BAY S PL; MISS BAY S PLN; MISS BAY S PLN/M-; MB-RA/MR-MU; MB-O/MB-RA; MB-RA/P; P/MISS BAY S PL; P/MISS BAY S PLN; HP-RA/RM-1; HP-RA; MB-RA; MISS BAY N RED; MISS BAY N RED PLN; MISS BAY N RED PL; MISS BAY S RED; MISS BAY S RED PLN; MISS BAY S RED PL

Appendix: Logic of Applying the Model

- This section of the appendix describes in more detail how the model was used to produce estimates of future housing production.
- For the existing zoning ("baseline"), the application of the model is straightforward. Current zoning was encoded using the zoning classification on the previous page, and current allowable height was used as the height variable in the logistic regression, and to calculate building envelope in the units regression.
- For the proposed rezoning ("policy"), the logic used was as follows: based on the units regression, each 1000 square feet of building envelope results in 0.42 units. The State Density Bonus adds an additional 0.44 units. Parcels that elect to use the Local Program therefore need to accommodate at least 0.44 additional units per 1000 square feet of envelope if developers are to choose this option. For parcels where the Local Program was more desirable, and on parcels that are ineligible for the SDB, because their zoning and size prevents them from building more than 5 units, the Local Program was applied. For all other parcels the SDB was used.

Appendix: Logic of Applying the Model (Continued)

- Probabilities and units for any parcel using the State Density Bonus were calculated by:
  - In the logistic regression, using the first new height in the rezoning table for Height_Ft and in the Env_1000_Area_Height calculation.
  - In the units regression, using the first new height in the rezoning table to calculate Env_1000_Area_Height;
  - Incorporating the SDB_2016_5Plus_EnvFull effect;
  - Incorporating the Zoning_DR_EnvFull if applicable (i.e. the parcel is density-restricted.

Appendix: Logic of Applying the Model (Continued)

- Probabilities and units for any parcel using the Local Program were calculated by:
  - In the logistic regression, setting zp_FBDMulti_RTO = 1, to account for the relaxation of density controls in the Local Program;
  - In the logistic regression, using the second new height in the rezoning table for Height_Ft and in the Env_1000_Area_Height calculation.
  - In the units regression, using the second new height in the rezoning table to calculate Env_1000_Area_Height;
  - In the units regression, removing the SDB_2016_5Plus_EnvFull effect;
  - In the units regression, removing the Zoning_DR_EnvFull effect.

Appendix: Business Disruption / Relocation Costs

- The analysis makes the following assumptions about business disruption and relocation costs:
  - Lost space will be 10% vacant, so 90% of the loss represents the loss of occupied space.
  - Lost business net income (for 6 months of disruption): $5/occupied square foot.
  - Fixed labor costs (for 6 months): $10/occupied square foot.
  - Moving costs and build-out of space at new premises: $175/occupied square foot

Staff Contact

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Exhibit E

Nov 3, 2025

San Francisco Board of Supervisors
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Housing Element Implementation

By email: Lisa.chen@sfgov.org, Board.of.Supervisors@sfgov.org, bos@sfgov.org, bos-supervisors@sfgov.org, ChanStaff@sfgov.org, ChenStaff@sfgov.org, DorseyStaff@sfgov.org, Jackie.Fielder@sfgov.org, MahmoodStaff@sfgov.org, MandelmanStaff@sfgov.org, MelgarStaff@sfgov.org, SauterStaff@sfgov.org, SherrillStaff@sfgov.org, Shamann.Walton@sfgov.org

Cc: john.carroll@sfgov.org; sarah.dennis-phillips@sfgov.org; cityattorney@sfcityatty.org

Dear San Francisco Board of Supervisors,

The California Housing Defense Fund ("CalHDF") writes in advance of the Land Use and Transportation Committee meeting scheduled for November 3, 2025 at 1:30pm. CalHDF writes to warn the Committee, as well as the larger Board, that certain elements of the proposed Housing Choice-San Francisco ("HCSF") plan – which is, in turn, part of the overall Family Zoning Plan – violate state law. The HCSF program, in its current form, would explicitly forbid the application of state housing laws and/or require housing project applicants to waive protections they and their projects are entitled to under state law. The City, however, lacks authority to enact a program with these restrictions.

If the City does not obey the law, CalHDF will challenge the City in court. Such a lawsuit would expose the City to penalties for failure to comply with housing element law. The City would also be ordered to grant development applicants access to *both* the HCSF program *and* state laws, including the Statewide Density Bonus Law (the "SDBL"). CalHDF urges the City to avoid such needless litigation and instead comply with the law in the first instance. The City should drop the HCSF program's effort to carve itself out of the SDBL and other state laws.

//

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State Law Limits Certain Aspects of the Proposed Housing Choice–San Francisco Bonus Program

The proposed HCSF bonus program provides additional residential zoning capacity for projects that meet certain criteria. Overall, this is good. However, one of the HCSF eligibility criteria poses a problem: the requirement, found in section 206.10(b)(5), that an HCSF project "not receive any density or development bonuses or relief from applicable Planning Code standards in any other State or local law or program." This requirement is unenforceable to the extent it pertains to state law, and, should it be enacted, developers will have the option to ignore it.

This is for four reasons. First, the City "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties, Inc. v. City of Half Moon Bay* (2006) 142 Cal.App.4th 572, 595.) Second, just as the City cannot waive state law's application, project applicants cannot waive protections to which they are entitled under state law, since those protections are designed to serve the public interest. (See Civ. Code, § 3513 ["a law established for a public reason cannot be contravened by a private agreement"].) Third, the SDBL includes explicit rules for local density bonus programs: such programs must build on, rather than supplant, the SDBL. Finally, even if the first three points are ignored, the SDBL allows project applicants to waive the HCSF eligibility requirement forbidding the use of state bonuses. (Gov. Code, § 65915, subd. (e).) Legal interpretations from the California Department of Housing and Community Development ("HCD"), the state agency charged with interpreting and enforcing state housing law, support these conclusions.

Background

State law contains many provisions that grant rights and protections to proposed housing developments and applications for proposed housing developments. These include AB 2011, codified at Government Code section 65912.100 et seq., the SDBL, codified at Government Code section 65915 et seq., SB 35, codified at Government Code section 65913.4, and more besides. These laws accomplish a variety of pro-housing policies by, among other things, allowing proposed housing developments that meet certain criteria (such as the inclusion of affordable units) to reduce or avoid local zoning and other land use restrictions. In some cases, whether a project is eligible for state law protections and the extent to which it may reduce or avoid local rules depends on the generosity of the local zoning code. For example, the SDBL calculates density bonuses using a "base density," defined as "the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan." (Gov. Code, § 65915, subd. (o)(6).)

The proposed HCSF program expands the San Francisco zoning code's accommodation for denser housing in much of the City. The aforementioned state laws then further expand the allowed range of housing projects, providing for even greater density and even more

forgiving standards for projects. But there is a catch: the HCSF program attempts to forestall these state laws, in section 206.10(b)(5). If not for proposed section 206.10(b)(5), housing project applicants would be able to propose projects under the HCSF rules and avail themselves of the full range of state law protections. Thus, the critical question is: does proposed section 206.10(b)(5) have any legal effect? As explained below, the answer is no. Developers may use both the HCSF rules and any state law bonuses or protections that apply.

The City Cannot Forgo the Application of State Law

State law preempts local law. (Cal. Const., art. XI, § 7.) This is a foundational constitutional principle, and it is no less true in the land use context than anywhere else. As a corollary to this principle, local governments "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties*, *supra*, 142 Cal.App.4th at 595.) Proposed section 206.10(b)(5), however, attempts to do exactly that: it states, in effect, that state land use laws do not apply to projects proceeding under the HCSF program. The City is careful to word the section to dance around the point, perhaps in recognition of the legal consequences, but the section's intended purpose is unmistakably to "forgo application of land use policies imposed by the Legislature," as caselaw and the California constitution forbid. (*Ibid.*)

As explained above, numerous state laws – particularly the SDBL – grant certain housing projects legal protections. None of these state laws allows local governments to circumvent or opt out of these rules. The attempt to do so, in section 206.10(b)(5) of the proposed HCSF program, does not pass legal muster, and project applicants will be entitled to ignore it.

Project Applicants Cannot Waive State Law Protections to Which They Are Entitled

Just as the City cannot waive the application state land use and housing laws, neither can developers. "[A] law established for a public reason cannot be contravened by a private agreement." (Civ. Code, § 3513.) In other words, if a law is designed to accomplish a public benefit (possibly in addition to private benefits), the law's provisions cannot be waived. (See, e.g., *County of Riverside v. Superior Court* (2000) 86 Cal.App.4th 211, 220 [holding employment protections for public safety officers, although they benefitted individual officers, also served a broader public purpose and could not be waived].) The legislature has made clear that pro-housing laws serve the broader public interest.[1] (See, e.g., Gov. Code, §§ 65915, subd. (u); 65913.4, subd. (u); 65582.1; Stats. 2024, ch. 294, § 1; Stats. 2023, ch. 783, § 1.) The legislative history for these laws, moreover, confirms they are intended to serve the public by

[1] On one occasion, California courts found that a law establishing time limits for housing permit application processing primarily benefitted project applicants and not the general public, and hence project applicants could waive them. (*Bickel v. City of Piedmont* (1997) 16 Cal.4th 1040, 1049-1052.) The legislature immediately rebuked the Courts and overturned the *Bickel* holding through legislation. (See *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1439.)

expanding the supply of housing and affordable housing. (See *Doskocz v. ALS Lien Services* (2024) 102 Cal.App.5th 107, 115-116 [legislative history is relevant in deciding whether law serves a public purpose and hence cannot be waived].) Hence, project applicants have no authority to disclaim the application of these laws, as the City's proposed HCSF program would have them do.

Two additional reasons prevent project applicants from waiving their right to pursue state law protections.

First, as with all legal waivers, such a waiver must be voluntary. (*Harvey v. County of Kern* (1930) 107 Cal.App. 590, 597.) As currently framed, the HCSF program does not ask project applicants to voluntarily waive their state law rights. It instead makes waiver *mandatory* for any project applicant. No waiver can occur through such an ultimatum; to the extent that the issue is unclear, moreover, the ambiguity resolves against the existence of a waiver. (See *Perini v. Perini* (1964), 225 Cal.App.2d 399.)

Second, waiver requires "an abandonment of a right that could be enforced or a privilege that could be exercised." (*Estate of Goyette* (1971) 14 Cal.App.3d 224, 232 [internal citations omitted].) Thus, for an applicant to be able to waive the application of state law to an HCSF project, it must be the case that the applicant could, absent the waiver, enforce the application of the relevant state law. And it must be the case, from there, that the applicant could choose *not* to waive their rights and instead apply state law protections and bonuses to their project. In this way, the City faces a catch-22, and however it resolves the dilemma, developers will be able to use both the HCSF program and state law.

The State Density Bonus Law Creates Narrow Guidelines for Local Bonus Programs, Which the HCSF Program Does Not Obey

The SDBL does allow local governments to implement local bonus programs. It includes strict rules for such programs, however, which the proposed HCSF program does not meet. Local bonus programs must add to, rather than supplant, the SDBL. Government Code section 65915, subdivision (n), states: "nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus *greater than* what is described in this section for a development that meets the requirements of this section" (emphasis added). By negative implication, local governments are forbidden from offering density bonuses that do not incorporate, at minimum, the bonuses allowed by the SDBL. Local bonus programs must add to the SDBL; they cannot displace it in favor of an entirely separate density bonus scheme. As described above, moreover, preemption principles prevent local governments from evading the SDBL, and this language in the SDBL confirms that outcome.

The SDBL includes stronger language too. Government Code section 65917 states:

> In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. **In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.**

(Emphasis added.) In other words, if San Francisco wishes to offer a density bonus to developers, it must first allow them any protections they are entitled to under the SDBL. Only then can it offer a local bonus program. The law establishes a clear baseline: project applicants may avail themselves of any bonuses and benefits they are entitled to under the SDBL, and further local bonuses and benefits must come on top of the SDBL.

These rules are especially important in San Francisco. HCD has found that the SDBL is "critical" for developers navigating San Francisco's complex zoning rules and extensive procedural hurdles. (See "Examining Local Law, Policy, and Planning Practice on Development in San Francisco Using CALES," O'Neill et al., pp. 38-39 (available here).) In some cases, HCD has issued Notices of Violation to San Francisco for impeding housing development by refusing to grant bonuses, incentives, and waivers allowed by the SDBL. (See, e.g., California Department of Housing and Community Development, Letter to Kate Conner, December 29, 2022 (available here).) These HCD findings and Notices of Violation confirm the SDBL's importance in producing housing in San Francisco.

The proposed HCSF program, by attempting to displace the SDBL entirely, violates the SDBL's explicit rules for local bonus program. This violation carries particular significance for San Francisco, where project applicants often rely on the SDBL to navigate a complex zoning code and approval process. If San Francisco wishes to implement a local bonus program, it must stack that program on top of the SDBL. It cannot offer an "alternative" bonus program, such as the proposed HCSF program, that attempts to remove SDBL eligibility for projects that are eligible for SDBL protections.

In closing this section, CalHDF notes that HCD has weighed in on the question of whether local governments may enact zoning bonus programs that serve as alternatives to state law. In a letter to Menlo Park (available here), the Department wrote: "[T]he City's Affordable Housing Overlay states that the overlay will be an alternative to state density bonus law. **This is in conflict with state law and must be revised."** (Emphasis added.)[2] HCD's view warrants substantial deference as the interpretation of a "technical, obscure, [or] complex" statutory

[2] Separately, as explained later in this letter, HCD's Site Inventory Guidebook (available here) analyzes whether zoning overlays or other local zoning programs established by a city's housing element may supplant or displace the SDBL and firmly establishes that they cannot. (See pages 14-15 of the guidebook.) This analysis is more relevant to the question of how the HCSF program will affect the City's compliance with the Housing Element Law, but this analysis also underscores the specific point that the City may not wriggle out of state law.

scheme by the agency charged with enforcing it. (See *Boling v. Public Employment Relations Bd.* (2018) 5 Cal.5th 898, 911 [citing *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12]; *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1113, fn. 13 ["We substantially rely on the Department of Housing and Community Development's interpretation [...] regarding compliance with the housing element law"].)

Even if the City Can Prohibit the Application of State Law, the Density Bonus Law Gives Project Applicants the Legal Right to Circumvent the City's Prohibition

Even if the above legal rules do not neutralize the City's attempt to avoid state law, any project eligible for the SDBL will be able to defeat the application of proposed section 206.10(b)(5). The SDBL states: "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." (Gov. Code, § 65915, subd. (e)(1).) If a proposed project complies with the HCSF except for section 206.10(b)(5) – because it seeks benefits under the SDBL or another state law – and the application of section 206.10(b)(5) would physically preclude the project by eliminating its eligibility for the HCSF, then the City cannot apply that section to the project. To the extent the City doubts or intends to contest this, CalHDF reminds the City that the SDBL, by its terms, "shall be interpreted liberally in favor of producing the maximum number of total housing units." (*Id.* at subd. (r).) Flouting the law on this point also carries severe penalties, including mandatory payment of attorney's fees to a project applicant who challenges the City in court. (*Id.* at subd. (e)(1).)

The HCSF Program Violates the Housing Element Law

Furthermore, the HCSF violates the Housing Element Law (Gov. Code, § 65580 et seq.). Rezoning programs enacted pursuant to a housing element, such as the proposed Family Zoning Plan and its component HCSF program, may not exempt themselves from state law's application, as HCD has explained in its Site Inventory Guidebook (available here – see pages 14-15). Pursuing the HCSF program as it is currently designed would violate this rule and risk the City's housing element compliance. This would expose it to a range of penalties, including the "builder's remedy."

The City Should Take Care to Comply with New Caselaw Concerning Housing Element Rezonings

Lastly, the City should take care to ensure that the rezoning complies with housing element law requiring minimum residential density on low-income sites. The newly published Court of Appeal decision *New Commune DTLA LLC v. City of Redondo Beach* (Oct. 10, 2025, No. B336042) ___ Cal.App.5th ___ makes clear that in order to comply with minimum density requirements, local zoning must require that all new development include a minimum

density of residential use. Zoning "overlays" that allow for 100% non-residential development on a site fail to comply with housing element law. The proposed zoning includes many low-income sites that are given additional residential density on top of base commercial zoning. In order to comply with housing element law, the City should make clear that all new development of these sites must include the minimum density of residential use, and that 100% commercial development is prohibited.

‹ ›

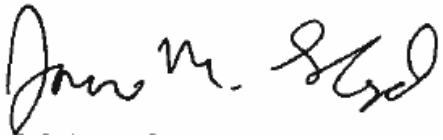
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New multifamily housing in San Francisco a public benefit: it will help satisfy demand for housing near jobs and transit, thereby reducing displacement pressure; and it will also cut down on transportation-related greenhouse gas emissions by providing housing in a major metro area, as opposed to farther-flung regions in the state (and out of state). CalHDF therefore urges the City to follow through on the commitments in its housing element, as the law requires, and obey state law in drafting and enforcing its land use regulations.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Exhibit F

CALIFORNIANS FOR HOMEOWNERSHIP

CAL HDF

Dec 1, 2025

San Francisco Board of Supervisors
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Housing Element Implementation

By email: Lisa.chen@sfgov.org, Board.of.Supervisors@sfgov.org, bos@sfgov.org, bos-supervisors@sfgov.org, ChanStaff@sfgov.org, ChenStaff@sfgov.org, DorseyStaff@sfgov.org, Jackie.Fielder@sfgov.org, MahmoodStaff@sfgov.org, MandelmanStaff@sfgov.org, MelgarStaff@sfgov.org, SauterStaff@sfgov.org, SherrillStaff@sfgov.org, Shamann.Walton@sfgov.org

Cc: john.carroll@sfgov.org; sarah.dennis-phillips@sfgov.org; cityattorney@sfcityatty.org

Dear San Francisco Board of Supervisors,

The California Housing Defense Fund ("CalHDF") and Californians for Homeownership ("CFH") write in advance of the Land Use and Transportation Committee meeting scheduled for December 1, 2025 at 1:30pm. We write to warn the Committee, as well as the larger Board, that certain elements of the proposed Family Zoning Plan violate state law. Specifically:

1. The City's proposed rezonings will not produce sufficient new housing. This violates commitments the City made when it adopted its Sixth Cycle Housing Element.

2. The City's proposed rezonings add new constraints on housing production. This, again, violates commitments the City made in its Sixth Cycle Housing Element and independently violates the Housing Element Law.

3. The "Housing Choice - San Francisco" program seeks to exempt San Francisco from certain state housing laws. That is illegal.

If the City does not correct these problems, CalHDF and CFH will challenge the City in court. As a result of the lawsuit, the City would, potentially, fall out of compliance with the Housing Element Law and face exposure to the "builder's remedy." (See Gov. Code, § 65589.5,

subds. (d)(5), (d)(6).) CalHDF and CFH urge the City to avoid such needless litigation and instead comply with the law in the first instance.

The City's Proposed Rezonings Are Inadequate

The Housing Element Law (Gov. Code, §§ 65580 et seq.) establishes a clear process for the evaluation, planning, and enactment of the City's housing policy. That process has a two-part structure. In the first part, the City must adopt a housing element on a specified timeline and that meets certain requirements. In the second part, the City must implement the programs promised in its housing element. Crucially, the second step relies on the first step: what, precisely, the City must do in the second step has already been established by the housing element. (See Gov. Code, § 65583, subd. (c).) The second step is *not* a freestanding exercise in policymaking or policy analysis. (See *id.*) The policymaking and policy analysis are conducted in the first step, and the Housing Element Law leaves essentially no room to alter the results at the second step.[1]

San Francisco has completed the first step. It adopted a housing element on January 31, 2023, adhering to the substantive and procedural rules in the Housing Element Law. The California Department of Housing and Community Development ("HCD") also certified the City's adopted housing element as legally compliant, pursuant to its statutory authority. (See, e.g., Gov. Code, § 65585.) That housing element made numerous detailed commitments. These commitments include promises to rezone large areas of the City to accommodate housing growth necessary to meet demand and ease upward pressures on housing costs. (See Gov. Code, §§ 65583 [establishing standards for required rezonings]; 65583.1 [same]; 65583.2 [same].) The housing element, moreover, promised not only to rezone, but to engage in detailed analysis that would help shape the rezoning. (See Program 7.1.1 in San Francisco's Housing Element, available here.)

San Francisco is now at the second step of the process: implementing the commitments in its housing element. This includes the aforementioned rezoning and associated policy analyses. The City's proposed rezoning, however, fails to fulfill crucial aspects of housing element commitments – commitments that the City, as explained above, cannot renege on without going through a full amendment process for its housing element.

Program 7.1.1 of the City's housing element commits the City to implementing a rezoning program that "reasonably account[s] for sites' likelihood of development during the planning period using an analytical model." The housing element uses mandatory language, stating that the City "shall" build its rezoning program around such a

[1] If the City wishes to alter the policy analysis or programs promised by its housing element, it has an avenue to do that: it may amend its housing element according to the procedures set forth in Government Code section 65585. But the process remains a two-step process: the City must first amend its housing element, and only then can it proceed to the second step of implementing the promised housing element programs.

"probability-of-development" analysis. In sum: the City must rezone to an extent that the expected number of new units that will be built after the rezoning, calculated via a robust probability-of-development analysis, meets the City's projected housing need (i.e. the Regional Housing Needs Assessment, or "RHNA," allocation, plus a buffer specified in the housing element).

The current rezoning proposal does not do this. The proposal's failure is twofold. First, none of the methods the Planning Department has relied on to assess whether the proposal will satisfy San Francisco's rezoning obligation constitutes a probability-of-development analysis using an analytical model in line with Program 7.1.1 in the housing element. Second, when the City has conducted an analysis that meets the requirements of Program 7.1.1, the analysis shows the current rezoning proposal will not satisfy San Francisco's rezoning obligation.

With respect to the rezoning proposal's first failure: the City proposes three methods to project the number of new units the proposed rezoning can be expected to produce. None of the three methods measures up to the standards in Program 7.1.1.

1. The first method is the "soft sites" method, which is described in appendix B of the City's housing element. This method assumes that a site currently hosting a residential use has a two percent probability of being redeveloped with the rezoning's planned residential capacity and a site currently hosting a non-residential use has a seventy percent probability of redevelopment. Such rigid calculations based on uniform, citywide assumptions about the odds of development on thousands of very different sites are not an "analytical model" and do not "reasonably account for sites' likelihood of development" as required by Program 7.1.1. These assumptions, furthermore, are not reasonable and do not rest on any evidence. They are highly motivated guesswork, and highly motivated guesswork will not cut the mustard.

2. The second method rests on an economic model developed by a consultant. This model does not assess the likelihood of a given site's being developed under the rezoning proposal. Instead, it calculates how many units of housing are "financially feasible" on parcels throughout the City. This is not an "analytical model" that "reasonably account[s] for sites' likelihood of development" as required by Program 7.1.1. As the City well knows, property owners across the City submit permit applications for only a small portion of economically feasible new housing units, and not all of those permit applications ultimately produce actual housing units. The City attempts to address this problem by assuming – similar to the soft sites method – that two percent of sites with economically feasible new housing developments currently occupied by residential uses and thirty-five percent of other sites with economically feasible new housing developments will be developed. This is inadequate for the same reasons the soft sites method is inadequate. Moreover, this

method projects only 19,000 new units of housing over the planning period – far below the 36,282 units the City must accommodate.

3. The third method involves looking at "how much of the City's overall zoning capacity has gotten built out over the years." This – again – is not an "analytical model." Nor does it look at the sites slated for rezoning under the current rezoning proposal and assess the likelihood they will produce new housing. This method is further flawed because much of San Francisco's recent increase in zoned capacity, and much of the new housing that has been built, took place on vacant sites, whereas the proposed housing element rezoning covers a broad swath of the City and comprises mostly non-vacant sites. Other problems here include unrealistically low estimates of the City's residential zoning capacity in prior years (thus inflating the share of residential zoned capacity that has been built out) and the inclusion of residential projects built under development agreements, which do not correspond to rezonings, and which were separately counted towards the City's pre-existing residential zoned capacity in the housing element.

With respect to the rezoning proposal's second failure, analytical models that would satisfy Program 7.1.1 in the housing element demonstrate that the proposed rezoning will not produce anywhere close to the required number of new units. San Francisco's City Economist recently released an analysis of the City's proposed rezoning. This analysis relies on the exact approach that San Francisco's Housing Element pledged to use: an analytical model that assesses the probability of development. (Indeed, it is the exact approach HCD suggested the city use.) The results are damning. In the **best case scenario,** San Francisco's City Economist's analytical model found that the rezoning can only be reasonably expected to produce around **14,646 units by 2045**. Less optimistic assumptions produce a forecast of only 8,504 units by 2045. This indicates the rezoning plan falls far short of what is required: being shown by an analytical model to reasonably be expected to produce **36,282 units by 2031**.

Changes to the planned rezoning since the analysis was conducted have further reduced the amount of new housing that can be expected. The proposed rezoning – specifically, the "Housing Choice - San Francisco" program – has been modified to add new unit mix requirements (see pages 14-15 here) and historic preservation requirements (page 30). The Land Use Committee made these changes despite unambiguous evidence in the record that the changes would reduce new housing's feasibility and reduce the number of new units the rezoning can be expected to create. The problem, then, is *even greater* than what the City Economist's analysis shows.

These are not minor problems. Program 7.1.1 is central to San Francisco's compliance with the Housing Element Law. The City's housing element meets the requirements of the Housing Element Law *only because* it included Program 7.1.1's commitment to rezone based

on a realistic probability-of-development analysis. To be crystal clear: without Program 7.1.1, the housing element does not comply with Government Code section 65583.2, subdivision (g)(2). This is because the housing element relies on non-vacant sites to accommodate more than half of its RHNA allocation at the lower-income level, and thus the Housing Element Law requires its housing element to "demonstrate that the existing use [on each non-vacant site] does not constitute an impediment to additional residential development." (Gov. Code, § 65583.2, subd. (g)(2).) "An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued." (*Ibid.*) San Francisco's housing element does not demonstrate with substantial evidence that specific existing uses on specific sites intended to accommodate low-income housing will not impede additional residential development. Instead, the housing element commits the City, in Program 7.1.1, to rezoning in a manner that "shall reasonably account for sites' likelihood of development during the planning period using an analytical model." That commitment is the basis of the City's compliance with Government Code section 65583.2, subdivision (g)(2). Refusing to follow through on that commitment would leave the City without any basis for compliance with the Housing Element Law on this point.[2]

CalHDF and CFH urges the City to do as the law requires. The City must adopt a rezoning that an analytical model, such as the City Economist's, shows can reasonably be expected to produce 36,282 new units under current economic conditions, as required by Program 7.1.1. Alternatively, the City can increase the probability of sites' development (again, according to a realistic analytical model) by adjusting non-zoning policies that constrain housing production: the City could, for example, reduce transfer taxes for residential projects, impact fees for new residential construction, or inclusionary zoning requirements. The City should not – it cannot – rely on flawed and insufficient analyses to justify its planned rezonings. Doing so violates the law.

The City Must Reduce Constraints on Housing Production, Not Add New Ones

The City's planned rezoning, although on net it adds new capacity, includes constraints on housing development that do not exist under current zoning rules. Specifically, the proposal includes minimum office densities, caps on dwelling unit size, new limits on curb cuts, and lower parking maximums. Furthermore, the City's proposed local zoning bonus program, known as the "Housing Choice–San Francisco" ("HCSF") program, imposes new limitations on residential projects' eligibility for protections and benefits under state laws, including the Statewide Density Bonus Law.

[2] The City could address this issue by producing site-specific evidence that existing uses on non-vacant sites will not impede additional residential development, adding that evidence to a new draft of its housing element, and adopting the amended housing element. But – again – the City would have to do this before rezoning. The process of developing and adopting housing element commitments and then, separately, implementing those commitments remains a two-step process.

CalHDF and CFH also note that the HCSF program was amended in committee on November 17, 2025 to include additional constraints. The HCSF program now virtually excludes any site in a historic district (see page 30 here). The HCSF now also imposes additional unit mix requirements on new housing projects (see pages 14 and 15 here). With respect to the unit mix requirements, it is silly for San Francisco, a City defined by large, multi-bedroom homes, to require new housing to replicate the bulk of existing housing supply in its bedroom counts. If new housing proposals include fewer bedrooms per unit, on average, that is because San Francisco's existing housing stock is already dominated by multi-bedroom homes; it is natural that new housing will fill a niche that the current housing supply does not.

More importantly, the new unit mix requirements, as well as other new constraints on housing, pose a problem for two reasons.

First, the new constraints were not analyzed by the City's housing element. The Housing Element Law requires local governments to analyze governmental constraints on housing production. (Gov. Code, § 65583, subd. (a)(5).) The results of this analysis then inform the policies and programs in the housing element. (See *id.*; *id.* at subd. (c)(3); *Californians for Homeownership, Inc. v. City of Beverly Hills* (2023) Los Angeles County Superior Court, Case No. 23STCP00143, at p. 6, [finding planned rezonings for housing element site inventory must consider constraints identified by the housing element's constraints analysis] [opinion attached to this letter].) Because the new constraints attached to the City's rezoning proposal were not analyzed in the City's housing element, the City cannot rely on the rezoning proposal to produce as many units as it is required to unless the City analyzes the effects of the new constraints and offsets their impact on housing production.

Second, the City's housing element explicitly recognizes this and commits the City to refrain from adding new constraints. Program 7.1.1 states: "The rezoning program … shall not add government constraints that reduce project financial feasibility as determined by an analysis prior to the rezoning enactment." Program 8.1.6 states: "[A]ny City-adopted rezoning or development controls shall not impose any new governmental constraints to the development of housing unless those increased constraints are offset by the removal or reduction of other constraints." If San Francisco wishes to establish new governmental constraints to housing production (such as making new developments ineligible for the waivers and protections offered by State Density Bonus Law), it must concurrently reduce other constraints to a degree that maintains the overall viability of new residential construction, "as determined by an analysis prior to the rezoning enactment" that assess projects' "financial feasibility." Pursuing the new constraints without offsetting them by reducing existing constraints, however, would violate the commitments in housing element programs 7.1.1 and 8.1.6 and hence violate the Housing Element Law.

The Proposed Housing Choice–San Francisco Bonus Program Cannot Exempt San Francisco from State Law

The proposed HCSF bonus program provides additional residential zoning capacity for projects that meet certain criteria. Overall, this is good. However, one of the HCSF eligibility criteria poses a problem: the requirement, found in section 206.10(b)(5), that an HCSF project "not receive any density or development bonuses or relief from applicable Planning Code standards in any other State or local law or program." This requirement is unenforceable to the extent it pertains to state law, and, should it be enacted, developers will have the option to ignore it.

This is for four reasons. First, the City "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties, Inc. v. City of Half Moon Bay* (2006) 142 Cal.App.4th 572, 595.) Second, just as the City cannot waive state law's application, project applicants cannot waive protections to which they are entitled under state law, since those protections are designed to serve the public interest. (See Civ. Code, § 3513 ["a law established for a public reason cannot be contravened by a private agreement"].) Third, the SDBL includes explicit rules for local density bonus programs: such programs must build on, rather than supplant, the SDBL. Finally, even if the first three points are ignored, the SDBL allows project applicants to waive the HCSF eligibility requirement forbidding the use of state bonuses. (Gov. Code, § 65915, subd. (e).) Legal interpretations from the California Department of Housing and Community Development ("HCD"), the state agency charged with interpreting and enforcing state housing law, support these conclusions.

Background

State law contains many provisions that grant rights and protections to proposed housing developments and applications for proposed housing developments. These include AB 2011, codified at Government Code section 65912.100 et seq., the SDBL, codified at Government Code section 65915 et seq., SB 35, codified at Government Code section 65913.4, and more besides. These laws accomplish a variety of pro-housing policies by, among other things, allowing proposed housing developments that meet certain criteria (such as the inclusion of affordable units) to reduce or avoid local zoning and other land use restrictions. In some cases, whether a project is eligible for state law protections and the extent to which it may reduce or avoid local rules depends on the generosity of the local zoning code. For example, the SDBL calculates density bonuses using a "base density," defined as "the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan." (Gov. Code, § 65915, subd. (o)(6).)

The proposed HCSF program expands the San Francisco zoning code's accommodation for denser housing in much of the City. The aforementioned state laws then further expand the allowed range of housing projects, providing for even greater density and even more

forgiving standards for projects. But there is a catch: the HCSF program attempts to forestall these state laws, in section 206.10(b)(5). If not for proposed section 206.10(b)(5), housing project applicants would be able to propose projects under the HCSF rules and avail themselves of the full range of state law protections. Thus, the critical question is: does proposed section 206.10(b)(5) have any legal effect? As explained below, the answer is no. Developers may use both the HCSF rules and any state law bonuses or protections that apply.

The City Cannot Forgo the Application of State Law

State law preempts local law. (Cal. Const., art. XI, § 7.) This is a foundational constitutional principle, and it is no less true in the land use context than anywhere else. As a corollary to this principle, local governments "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties*, *supra*, 142 Cal.App.4th at 595.) Proposed section 206.10(b)(5), however, attempts to do exactly that: it states, in effect, that state land use laws do not apply to projects proceeding under the HCSF program. The City is careful to word the section to dance around the point, perhaps in recognition of the legal consequences, but the section's intended purpose is unmistakably to "forgo application of land use policies imposed by the Legislature," as caselaw and the California constitution forbid. (*Ibid.*)

As explained above, numerous state laws – particularly the SDBL – grant certain housing projects legal protections. None of these state laws allows local governments to circumvent or opt out of these rules. The attempt to do so, in section 206.10(b)(5) of the proposed HCSF program, does not pass legal muster, and project applicants will be entitled to ignore it.

Project Applicants Cannot Waive State Law Protections to Which They Are Entitled

Just as the City cannot waive the application state land use and housing laws, neither can developers. "[A] law established for a public reason cannot be contravened by a private agreement." (Civ. Code, § 3513.) In other words, if a law is designed to accomplish a public benefit (possibly in addition to private benefits), the law's provisions cannot be waived. (See, e.g., *County of Riverside v. Superior Court* (2000) 86 Cal.App.4th 211, 220 [holding employment protections for public safety officers, although they benefitted individual officers, also served a broader public purpose and could not be waived].) The legislature has made clear that pro-housing laws serve the broader public interest.[3] (See, e.g., Gov. Code, §§ 65915, subd. (u); 65913.4, subd. (u); 65582.1; Stats. 2024, ch. 294, § 1; Stats. 2023, ch. 783, § 1.) The legislative history for these laws, moreover, confirms they are intended to serve the public by

[3] On one occasion, California courts found that a law establishing time limits for housing permit application processing primarily benefitted project applicants and not the general public, and hence project applicants could waive them. (*Bickel v. City of Piedmont* (1997) 16 Cal.4th 1040, 1049-1052.) The legislature immediately rebuked the Courts and overturned the *Bickel* holding through legislation. (See *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1439.)

expanding the supply of housing and affordable housing. (See *Doskocz v. ALS Lien Services* (2024) 102 Cal.App.5th 107, 115-116 [legislative history is relevant in deciding whether law serves a public purpose and hence cannot be waived].) Hence, project applicants have no authority to disclaim the application of these laws, as the City's proposed HCSF program would have them do.

Two additional reasons prevent project applicants from waiving their right to pursue state law protections.

First, as with all legal waivers, such a waiver must be voluntary. (*Harvey v. County of Kern* (1930) 107 Cal.App. 590, 597.) As currently framed, the HCSF program does not ask project applicants to voluntarily waive their state law rights. It instead makes waiver *mandatory* for any project applicant. No waiver can occur through such an ultimatum; to the extent that the issue is unclear, moreover, the ambiguity resolves against the existence of a waiver. (See *Perini v. Perini* (1964), 225 Cal.App.2d 399.)

Second, waiver requires "an abandonment of a right that could be enforced or a privilege that could be exercised." (*Estate of Goyette* (1971) 14 Cal.App.3d 224, 232 [internal citations omitted].) Thus, for an applicant to be able to waive the application of state law to an HCSF project, it must be the case that the applicant could, absent the waiver, enforce the application of the relevant state law. And it must be the case, from there, that the applicant could choose *not* to waive their rights and instead apply state law protections and bonuses to their project. In this way, the City faces a catch-22, and however it resolves the dilemma, developers will be able to use both the HCSF program and state law.

The State Density Bonus Law Creates Narrow Guidelines for Local Bonus Programs, Which the HCSF Program Does Not Obey

The SDBL does allow local governments to implement local bonus programs. It includes strict rules for such programs, however, which the proposed HCSF program does not meet. Local bonus programs must add to, rather than supplant, the SDBL. Government Code section 65915, subdivision (n), states: "nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus *greater than* what is described in this section for a development that meets the requirements of this section" (emphasis added). By negative implication, local governments are forbidden from offering density bonuses that do not incorporate, at minimum, the bonuses allowed by the SDBL. Local bonus programs must add to the SDBL; they cannot displace it in favor of an entirely separate density bonus scheme. As described above, moreover, preemption principles prevent local governments from evading the SDBL, and this language in the SDBL confirms that outcome.

The SDBL includes stronger language too. Government Code section 65917 states:

> In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. **In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.**

(Emphasis added.) In other words, if San Francisco wishes to offer a density bonus to developers, it must first allow them any protections they are entitled to under the SDBL. Only then can it offer a local bonus program. The law establishes a clear baseline: project applicants may avail themselves of any bonuses and benefits they are entitled to under the SDBL, and further local bonuses and benefits must come on top of the SDBL.

These rules are especially important in San Francisco. HCD has found that the SDBL is "critical" for developers navigating San Francisco's complex zoning rules and extensive procedural hurdles. (See "Examining Local Law, Policy, and Planning Practice on Development in San Francisco Using CALES," O'Neill et al., pp. 38-39 (available here and attached to this letter).) In some cases, HCD has issued Notices of Violation to San Francisco for impeding housing development by refusing to grant bonuses, incentives, and waivers allowed by the SDBL. (See, e.g., California Department of Housing and Community Development, Letter to Kate Conner, December 29, 2022 (available here).) These HCD findings and Notices of Violation confirm the SDBL's importance in producing housing in San Francisco.

The proposed HCSF program, by attempting to displace the SDBL entirely, violates the SDBL's explicit rules for a local bonus program. This violation carries particular significance for San Francisco, where project applicants often rely on the SDBL to navigate a complex zoning code and approval process. If San Francisco wishes to implement a local bonus program, it must stack that program on top of the SDBL. It cannot offer an "alternative" bonus program, such as the proposed HCSF program, that attempts to remove SDBL eligibility for projects that are eligible for SDBL protections.

In closing this section, CalHDF and CFH point out that HCD has weighed in on the question of whether local governments may enact zoning bonus programs that serve as alternatives to state law. In a letter to Menlo Park (available here), the Department wrote: "[T]he City's Affordable Housing Overlay states that the overlay will be an alternative to state density bonus law. **This is in conflict with state law and must be revised."** (Emphasis added.)[4] HCD's

[4] Separately, as explained later in this letter, HCD's Site Inventory Guidebook (available here) analyzes whether zoning overlays or other local zoning programs established by a city's housing element may supplant or displace the SDBL and firmly establishes that they cannot. (See pages 14-15 of the guidebook.) This analysis is more relevant to the question of how the HCSF program will affect the City's compliance with the Housing Element Law, but this analysis also underscores the specific point that the City may not wriggle out of state law.

view warrants substantial deference as the interpretation of a "technical, obscure, [or] complex" statutory scheme by the agency charged with enforcing it. (See *Boling v. Public Employment Relations Bd.* (2018) 5 Cal.5th 898, 911 [citing *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12]; *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1113, fn. 13 ["We substantially rely on the Department of Housing and Community Development's interpretation [...] regarding compliance with the housing element law"].)

Even if the City Can Prohibit the Application of State Law, the Density Bonus Law Gives Project Applicants the Legal Right to Circumvent the City's Prohibition

Even if the above legal rules do not neutralize the City's attempt to avoid state law, any project eligible for the SDBL will be able to defeat the application of proposed section 206.10(b)(5). The SDBL states: "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." (Gov. Code, § 65915, subd. (e)(1).) If a proposed project complies with the HCSF except for section 206.10(b)(5) – because it seeks benefits under the SDBL or another state law – and the application of section 206.10(b)(5) would physically preclude the project by eliminating its eligibility for the HCSF, then the City cannot apply that section to the project. To the extent the City doubts or intends to contest this, CalHDF and CFH remind the City that the SDBL, by its terms, "shall be interpreted liberally in favor of producing the maximum number of total housing units." (*Id.* at subd. (r).) Flouting the law on this point also carries severe penalties, including mandatory payment of attorney's fees to a project applicant who challenges the City in court. (*Id.* at subd. (e)(1).)

The HCSF Program Violates the Housing Element Law

Furthermore, the HCSF violates the Housing Element Law (Gov. Code, § 65580 et seq.). Rezoning programs enacted pursuant to a housing element, such as the proposed Family Zoning Plan and its component HCSF program, may not exempt themselves from state law's application, as HCD has explained in its Site Inventory Guidebook (available here – see pages 14-15). Pursuing the HCSF program as it is currently designed would violate this rule and risk the City's housing element compliance. This would expose it to a range of penalties, including the "builder's remedy."

The City Should Take Care to Comply with New Caselaw Concerning Housing Element Rezonings

Lastly, CalHDF and CFH warn the City to take care to ensure that the rezoning complies with housing element law requiring minimum residential density on low-income sites. The newly published Court of Appeal decision *New Commune DTLA LLC v. City of Redondo Beach* (Oct. 10, 2025, No. B336042) 115 Cal.App.5th 111 makes clear that in order to comply with

minimum density requirements, local zoning must require that all new development include a minimum density of residential use. Zoning "overlays" that allow for 100% non-residential development on a site fail to comply with housing element law. The proposed zoning includes many low-income sites that are given additional residential density on top of base commercial zoning. In order to comply with housing element law, the City should make clear that all new development of these sites must include the minimum density of residential use, and that 100% commercial development is prohibited.

As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New multifamily housing in San Francisco a public benefit: it will help satisfy demand for housing near jobs and transit, thereby reducing displacement pressure; and it will also cut down on transportation-related greenhouse gas emissions by providing housing in a major metro area, as opposed to farther-flung regions in the state (and out of state). CalHDF and CFH therefore urge the City to follow through on the commitments in its housing element, as the law requires, and obey state law in drafting and enforcing its land use regulations.

Sincerely,





Matthew Gelfand
Californians for Homeownership

Dylan Casey
CalHDF

Exhibit G

Feb 6, 2026

The City and County of San Francisco
San Francisco Board of Supervisors
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Anticipated Litigation Concerning Housing Element Implementation

By email: Lisa.chen@sfgov.org, Board.of.Supervisors@sfgov.org, bos@sfgov.org, bos-supervisors@sfgov.org, ChanStaff@sfgov.org, ChenStaff@sfgov.org, DorseyStaff@sfgov.org, Jackie.Fielder@sfgov.org, MahmoodStaff@sfgov.org, MandelmanStaff@sfgov.org, MelgarStaff@sfgov.org, SauterStaff@sfgov.org, SherrillStaff@sfgov.org, Shamann.Walton@sfgov.org, daniel.lurie@sfgov.org

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To the City of San Francisco:

The California Housing Defense Fund ("CalHDF"), Californians for Homeownership ("CFH"), and Yes In My Back Yard ("YIMBY Law") intend to file a lawsuit against the City and County of San Francisco for violations of state housing law.

1. The City has failed to implement policy program commitments in its sixth cycle housing element, in violation of the Housing Element Law. The City's sixth cycle housing element committed the City to adopting a rezoning that would produce 36,282 units by 2031. The City has not done so, opting instead for a rezoning that will not produce anything close to that many units. The City's sixth cycle housing element also committed the City to adopting a rezoning that did not include new constraints on housing production. Again, the City has not done so, opting instead for a rezoning that includes significant new constraints. Furthermore, the City's rezoning on its face violates state housing law.

2. The City's Family Zoning Plan ("FZP") includes a local bonus program, known as the Housing Choice – San Francisco ("HCSF") program. The HCSF program seeks to evade the application of state housing laws, including the Statewide Density Bonus Law, in violation of those housing laws and the Constitution of the State of California.

CalHDF, CFH, YIMBY Law, and their affiliates have warned the City of these problems on numerous occasions in the preceding six months. The City has disregarded these warnings. CalHDF, CFH, and YIMBY Law plan to file suit unless the City takes immediate action to address these problems.

We remain happy to speak with the City at any time.

Sincerely,



Matthew Gelfand
Californians for Homeownership



Dylan Casey
CalHDF



Ryan Patterson
Yes In My Back Yard