



PUBLIC LAW CENTER
PROVIDING ACCESS TO JUSTICE
FOR ORANGE COUNTY'S LOW INCOME RESIDENTS

August 3, 2020

Planning Commission
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988, M31
Santa Ana, CA 92701

RE: Opposition – Zoning Ordinance Amendment No. 2020-03 to Update The Housing Opportunity Ordinance

Dear Honorable Members of the Planning Commission for the City of Santa Ana:

The Public Law Center is a non-profit pro bono law firm in Orange County that provides access to justice for low-income and vulnerable residents. Our practice includes providing representation to low-income families in housing-related matters, preventing homelessness, and advocating for affordable and inclusionary housing. We write to express our strong opposition to amending the Housing Opportunity Ordinance (“HOO”) as set forth in proposed Zoning Ordinance Amendment No. 2020-03 because it is the wrong time to amend the HOO. As the Planning Commission is aware, the nation is in the midst of the COVID-19 pandemic that has resulted in the death of thousands of Americans and millions of cases nationwide. The City of Santa Ana represents one of the hot spots of the Coronavirus outbreak as the pandemic has disproportionately affected Black and Latinx residents.¹ Further, the sudden economic loss of many in the City of Santa Ana due to the Coronavirus has exposed the need to provide access to affordable housing opportunities, particularly for those who are in need of extremely low- and very low-income housing. During these unprecedented times, it is important to keep the HOO in its current form, which the City of Santa Ana established to promote the provision of affordable housing within the City of Santa Ana.

We have previously written the City Council and informed the Councilmembers of our opposition to efforts to weaken the HOO, which have come largely from developers who alleged that the inclusionary requirements and in-lieu fee requirements were stifling. Developers made this allegation notwithstanding the City of Santa Ana amending the HOO in 2015 to make the inclusionary requirements more predictable for housing developers and to increase affordable housing production in conjunction with new market rate housing development. We have attached true and correct copies of the opposition letters we previously sent to the City Council to this letter as Exhibits 1 and 2, respectively.

¹ *Santa Ana and Anaheim Residents Are Getting Hit with Coronavirus at far higher rates than other O.C. Cities*, available at <https://voiceofoc.org/2020/06/santa-ana-and-anaheim-residents-are-getting-hit-with-coronavirus-at-far-higher-rates-than-other-oc-cities/> (last visited on August 1, 2020).

Letter to the Planning Commission

RE: Opposition – Zoning Ordinance Amendment No. 2020-03.

August 3, 2020

It concerns us that the Planning Commission seeks to propose to substantially reduce the in-lieu fee altogether for proposed projects that fall under the HOO from fifteen to five dollars. Further, the City of Santa Ana proposes to reduce the applicability of the HOO to developments with 20 units or more, which was not previously the case.² To reduce in-lieu fees when we are in the midst of one of the worst affordable housing crisis on record endangers the purpose of the HOO: to ensure that new development includes affordable housing units. Indeed, in prior years, the City of Santa Ana has used the in-lieu fees generated through the HOO to develop affordable housing projects in the City of Santa Ana, such as the First Street Apartments. The First Street Apartments are 69 affordable housing units that the City of Santa Ana developed with the transfer of \$10 million dollars in in-lieu fees from Heritage Village LLC. Likewise, to delay the HOO until approximately April 2021 is equally problematic because we are approaching the 6th Cycle of the Housing Element where the Regional Housing Needs Allocation (“RHNA”) will increase due to the rising need for affordable housing, which has been punctuated by a worsening homelessness crisis, statewide. The HOO, as is, would promote the construction of new affordable housing units during what is certain to be a boon for those searching for development opportunities in the City of Santa Ana, which would help the City of Santa Ana meet its forthcoming increased RHNA obligation. Additionally, the City of Santa Ana proposes to eliminate density incentives that we see helping towards to goal of obtaining more affordable housing, something the City of Santa Ana will need with an increased RHNA obligation and the need for more low-income housing.³ Thus, amending the HOO as proposed will undoubtedly jeopardize these goals. It is no secret that there is a great need for affordable housing in the City of Santa Ana and the lack of an adequate supply is a barrier to livability. The City of Santa Ana made efforts to meet the affordable housing need with the HOO as a policy to help promote and ensure the development of affordable housing for low- and very low-income residents. It is necessary that the City of Santa Ana continue to move forward in its efforts.

Many of our clients are working families in the City of Santa Ana who are facing a housing affordability crisis and are in desperate need of safe, stable, and affordable places to live. In Santa Ana, there is a significant need to address and provide housing opportunities for all economic segments of the community. Families in the City of Santa Ana are extremely cash strapped and rent burdened, as many of them use their limited income (over 50%) to pay for their housing costs. As residents struggle to find available and affordable housing in Santa Ana, rents have continually increased. In the City of Santa Ana, the 2020 average rent for a large rental complex was \$1,982, which a three percent (3%) increase from the year before.⁴ Furthermore, housing costs continue to skyrocket in California, as a resident in Orange County must now work an average of 3.3 jobs to afford fair-market rent.⁵ The rents are far out-of-reach for many lower-income working families in the City of Santa Ana, and if they are priced out of Santa Ana, there are not many places they can relocate to in Orange County, as the County is becoming more and more unaffordable. Hence, to protect the low-income residents of the City of Santa Ana, particularly during the Coronavirus pandemic, the Planning Commission should not amend the HOO as proposed.

² Proposed Zoning Ord. Amend. No. 2020-03, §41-1901(c).

³ Proposed Zoning Ord. Amend No. 2020-03 §41-1901(a)(2).

⁴ <https://www.rentcafe.com/average-rent-market-trends/us/ca/santa-ana/> (last visited on August 1, 2020).

⁵ *Out of Reach 2020*, National Low Income Housing Coalition

<https://reports.nlihc.org/sites/default/files/oor/files/reports/state/CA-2020-OOR.pdf> (California) (last visited on August 1, 2020).

Letter to the Planning Commission

RE: Opposition – Zoning Ordinance Amendment No. 2020-03.

August 3, 2020

There is a scarcity of quality affordable housing units in the City of Santa Ana. Amending the Housing Opportunity Ordinance does not support the efforts by the City of Santa Ana to meet the Strategic Plan Goal No. 5, Objective No. 3.⁶ If the Planning Commission votes to approve Zoning Ordinance Amendment No. 2020-03, it will halt the development of diverse housing opportunities and it will not support efforts to improve livability in the City of Santa Ana, at a critical time for the City of Santa Ana's residents of lower-income means who are vulnerable due to devastating effects of the Coronavirus. Moreover, the City of Santa Ana will need to meet an increased need in affordable housing for those who live in low-income communities, and that should be met through the HOO. For the forthcoming 6th Cycle of the Housing Element, SCAG proposes to increase the City of Santa Ana's RHNA number to include 583 very-low income units. Because the number of units exceed the RHNA under the current 5th Cycle of the Housing Element of 405 very-low income units, and the City of Santa Ana will need to accommodate 360 units of low-income housing, it is important that the City of Santa Ana keep its program to develop affordable housing, the HOO, strong. Additionally, the proposed Amendment to the HOO undermines the efforts of the City of Santa Ana to accomplish Goal 2 of its current Housing Element, as follows:

“A diversity of quality housing, affordability levels, and living experiences that accommodate Santa Ana's residents and workforce of all household types, income levels, and age groups to foster an inclusive community.”⁷

The City can only accomplish this goal with the funding created by the HOO and cutting that funding undermines the City's ability to accomplish this Housing Element goal. For these reasons, we urge the Planning Commission to vote against approving Zoning Ordinance Amendment No. 2020-03.

Should the Planning Commission move forward with the Zoning Amendment No. 2020-03, we would propose the following changes:

1. Remove the priority on acquisition and rehabilitation and amend Zoning Amendment No. 2020-03 to prioritize construction of new units. If the Planning Commission declines to do this, amend the Zoning Amendment No. 2020-03 and jointly prioritize acquisition/rehabilitation and construction of new units to help address the housing crisis faced by residents in the City of Santa Ana who are in the lowest economic bracket and in need of affordable housing.
2. Where a rehabilitation project results in displacement of tenants, require the developer to pay relocation costs in line with the requirements of the California Relocation Assistance Act, Government Code section 7060 *et seq.* to ensure that the developer pays displaced tenants the proper amounts to relocate because of the displacing activity.⁸
3. Expand the concessions under proposed section 41-1904.1, subdivision (b) to include the development of low-income units and a surrounding community benefit to ensure that

⁶ Santa Ana Strategic Plan, Goal 5, <https://www.santa-ana.org/sites/default/files/Documents/CommunityHealthLivabilityEngagementandSustainability.pdf> (last visited on August 1, 2020).

⁷ City of Santa Ana Housing Element (2014-2021), Goal 2, p. 45.

⁸ Proposed Zoning Ord. Amend. No. 2020-03, §41-1906(c)(4).

Letter to the Planning Commission

RE: Opposition – Zoning Ordinance Amendment No. 2020-03.

August 3, 2020

the City of Santa Ana does not contribute to gentrification and deny fair housing opportunities to low-income communities or nonprofits, such as Community Land Trusts, from having the opportunity to purchase for sale units.⁹

4. If the Planning Commission proposes to delay the date of the HOO, amend that delay date to January 2021, given the devastating impacts of the Coronavirus on everyone, and in particular, those who are in lower-income economic brackets of the City of Santa Ana. Because of the sudden economic loss due to Coronavirus, the estimates are that approximately 43M Americans are at risk of eviction.¹⁰ In California, an unprecedented number of renters in California, many of whom are people of Black and Latinx descent have expressed an extremely small to no confidence in their ability to pay rent to their landlords during this pandemic.¹¹ Given these stunning statistics, the City of Santa Ana should continue to lead with a strong inclusionary ordinance and restart the HOO as soon as possible, in the event that the Planning Commission recommends to the City Council to delay the HOO.

Sincerely,



Ugochi Anaebere-Nicholson

Directing Attorney, Affordable Housing and Homelessness Prevention Unit

⁹ See Gov. Code 8899.50 (AB 686), State AFFH; see also HCD's Final 2020 AI <https://www.hcd.ca.gov/policy-research/plans-reports/index.shtml#aifh>

¹⁰ 3 million Americans at risk of eviction as relief programs and moratorium expire: "It's a nightmare" <https://www.cbsnews.com/news/eviction-moratorium-expired-coronavirus/> (last visited on July 31, 2020).

¹¹ These Californians are especially worried about paying rent during coronavirus. Is help coming? <https://www.sacbee.com/news/politics-government/capitol-alert/article244568527.html> (last visited July 31, 2020).

EXHIBIT 1


PUBLIC LAW CENTER

PROVIDING ACCESS TO JUSTICE
FOR ORANGE COUNTY'S LOW INCOME RESIDENTS

September 6, 2016

Mayor Miguel Pulido and Members of the City Council
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988, M31
Santa Ana, CA 92701

RE: Opposition – Amendment to Housing Opportunity Ordinance

Dear Mayor Pulido and Members of the City Council:

The Public Law Center is a non-profit pro bono law firm in Orange County that provides access to justice for low-income and vulnerable residents. Our practice includes providing representation to low-income families in housing-related matters, preventing homelessness, and advocating for affordable and inclusionary housing. **We write to express our strong opposition to amending the Housing Opportunity Ordinance (“HOO”) as requested by the developer, Heritage Village, LLC.**

In February of 2016, the City Council made an impactful decision to rezone over 18 acres of land from light industrial to residential, allowing for the development of a 1,221 unit market-rate development, the Heritage Village Project, and providing a significant windfall profit to Heritage Village, LLC. During the 2015 amendments negotiation to the HOO, pipeline projects such as the Heritage Village Project received incentives to pay a reduced inclusionary housing in-lieu fee. At that time, the Heritage Village Project elected to receive the incentives and entitlements in full, in exchange for paying the reduced in-lieu fee. The Heritage Village Project committed to a very important community benefit, specifically the payment of nearly \$10 million in inclusionary housing in-lieu fees.

Heritage Village, LLC requested that its in-lieu fee be allocated to the First Street Apartments project. First Street Apartments seeks to build 69 affordable family units, and it depends on the Heritage Village Project's full payment of the \$10 million in-lieu fees to help fund the First Street Apartments Project. The development of the First Street Apartments Project coincides with the development of the Heritage Village Project, thereby fast tracking the development of affordable housing in Santa Ana. These are 69 units of affordable housing that are needed now; our community cannot afford to wait. As it currently stands, the HOO promotes the construction of new affordable housing units. It is no secret that there is a great need for affordable housing in the City and the lack of an adequate supply is a barrier to livability. The City has made efforts to meet the affordable housing need with the Housing Opportunity Ordinance as a policy to help promote and ensure the development of affordable housing for low- and very-low income residents. It is necessary that the City continue to move forward in its efforts. **The approval of Heritage Village,**

Letter to Mayor Pulido and Members of the City Council
Re: Opposition – Amendment to Housing Opportunity Ordinance
September 6, 2016
Page Two

LLC's proposed amendment will be a setback and provide uncertainty for the future development of affordable housing.

Many of our clients are working families in Santa Ana that are facing a housing affordability crisis and are in desperate need of decent, affordable housing. In Santa Ana, there is a significant need to address and provide housing opportunities for all economic segments of the community. Families in our City are extremely rent burdened, as most of their limited income (over 50%) is used to pay for housing costs. As residents struggle to find available and affordable housing in Santa Ana, rents have continually increased. In the City, the 2016 average rent for a large rental complex was \$1,786.00, which was a 3.7% increase from the year before.¹ These rents are far out-of-reach for many lower income working families in the City.

There is a scarcity of quality affordable housing units in the city. **Amending the Housing Opportunity Ordinance does not support the City of Santa Ana's efforts to meet the Strategic Plan Goal No. 5 and Objective No. 3.** If the Ordinance is amended it will not facilitate diverse housing opportunities and it will not support efforts to improve livability in Santa Ana. Amending the Housing Opportunity Ordinance to allow for the phased payment of inclusionary housing in-lieu fees will affect all future affordable housing developments, not just the First Street Apartments. **We urge the City Council to vote against approving Zoning Ordinance Amendment No. 2016 – 02.**

Sincerely,



Ugochi Nicholson

¹ *Tiny Spaces Not So Cheap: Studios are O.C.'s Priciest Rentals, Orange County Register, April 19, 2016.*

EXHIBIT 2


PUBLIC LAW CENTER

PROVIDING ACCESS TO JUSTICE
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February 7, 2017

Mayor Miguel Pulido and Members of the City Council
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988, M31
Santa Ana, CA 92701

**RE: First Street Apartments - 1440 E. First Street Santa Ana, CA 92701
City Council Item 80A, February 7, 2017**

Dear Mayor Pulido and Members of the City Council:

The Public Law Center ("PLC") is a non-profit pro bono law firm that provides access to justice for low-income and vulnerable residents of Orange County. We represent low-income families in housing-related matters, many of whom reside in Santa Ana and are in great need of affordable housing. PLC is informed of AMCAL's affordable housing proposal located on First Street in the City of Santa Ana. **We write to express our strong support for AMCAL's project, which is needed now more than ever.**

The housing affordability crisis in Santa Ana is worsening each year. Many Santa Ana residents cannot afford the home purchase prices or apartment rents, which are skyrocketing. These unaffordable costs are forcing families to live in overcrowded housing and substandard housing conditions. Lower income families are extremely rent burdened, as most of their income (over half) is used to pay for housing costs.

Given the housing crisis, we need affordable housing to be developed immediately, and AMCAL's project, First Street Apartments, is approved and ready to move forward. The rental units are affordable to households earning between 30% and 60% of the Area Median Income. Further, half of the project provides three- and four-bedroom units designed to accommodate larger families—a great need in the Santa Ana housing market.

After two years of work, the First Street Apartments project is prepared to apply for tax credit financing next month and to break ground this year. PLC understands that AMCAL's proposal was approved last year by the City with unanimous support from the Planning Commission and City Council. First Street Apartments was approved by the City Council as a companion project to the Heritage development in order to meet the requirements of the Housing Opportunity Ordinance ("HOO"). As a result of the Heritage development receiving recent approval to pay the in-lieu fees required by the HOO in phases, First Street Apartments needs the funding it is requesting. The

Letter to Mayor Pulido and Members of the City Council
Re: First Street Apartments - 1440 E. First Street Santa Ana, CA 92701
February 7, 2017
Page Two

City's funding of \$8.795 million (\$2.6 million from The Heritage and \$6.195 million from the City) is needed to make the First Street Apartments' tax credit application competitive for an award, similar to past projects funded by the City. **Without the necessary funding from the City of Santa Ana, First Street Apartments cannot go forward.**

AMCAL's proposal will provide greatly needed, high-quality housing that is necessary to address Santa Ana's housing crisis. PLC asks you to act now in support of this important project.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Kim". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michelle Kim
Staff Attorney