

PRESS RELEASE

For Immediate Release

July 21, 2016

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Community Brings Lawsuit to Force San José to Comply with State Affordable Housing Law

San José – Attorneys for two San José residents and two non-profit housing advocacy organizations filed a lawsuit in state court today against the City of San José, charging that a policy it passed recently to spur development of mostly high-rise luxury housing on public land in San José's downtown violates the California's Surplus Land Act (SLA). The Act requires cities to prioritize public land for affordable housing that they sell or lease. The Surplus Land Act was intended by state lawmakers to ensure that all California cities do their part to address the state's affordable housing crisis.

San José has faced its own affordability crisis with the average monthly rent for a 2-bedroom apartment reaching \$2,792, affordable only to renters making \$54 per hour or nearly \$112,000 annual salary.

"When there is a regional housing crisis, the City of San José should be utilizing public land for the good of the public," said Ellen Wu, Executive Director of Urban Habitat, an organizational plaintiff in the lawsuit. "The housing needs of low-income communities and communities of color must be prioritized," she said.

San José residents Sarah Anderson and Joana Cruz are individual plaintiffs in *Anderson, et al. v. City of San José*; the other organizational plaintiff is Housing California.

The policy being challenged in the lawsuit would exempt all surplus land in the downtown area from state affordable housing requirements for five years; it would allow city staff to disregard these requirements on surplus land anywhere in the city at any time; and finally, it changes the definition of low-income as defined in the SLA to allow for more higher-income buyers.

"The City is draining the cultural richness out of San José," said Cristina Peña, staff attorney with Bay Area Legal Aid. "By handing over one of its most powerful affordable housing tools at a time when we are facing a statewide housing crisis, San José is reducing the supply of affordable housing. The effect discriminates based on race and ethnicity, and that contradicts San José's long history of embracing its vibrant diversity."

Plaintiff Sarah Anderson is a longtime San José resident who became homeless as a result of domestic violence in June 2015. She is a veteran and has two minor children, ages 13 and 9. She now lives in an overcrowded apartment, using more than half of her income to pay rent. She needs to stay in the area to comply with child custody and visitation orders and has struggled to find affordable housing.

Plaintiff Joana Cruz is a longtime San José resident who lives in an overcrowded two-bedroom apartment with her husband, two teenage children, and brother-in-law. She had to move from her last home after the rent was raised by \$700 per month. She uses almost half of her income for rent at her new location.

“As stewards of the people’s land in San José, the City should be leading the effort to create more affordable housing, not reduce it,” said Sam Tepperman-Gelfant senior staff attorney with Public Advocates. “San José stands to lose hundreds of affordable homes downtown if this illegal policy is implemented, hurting more people like Ms. Cruz and Ms. Anderson” he said.

Organizational plaintiff Urban Habitat is a non-profit organization that works to advance equitable policies to create a just and connected Bay Area for low-income communities and communities of color, including policies to create and preserve affordable housing and to protect low-income residents from economic displacement.

Organizational plaintiff Housing California is a statewide nonprofit organization dedicated to decreasing homelessness and increasing the supply of safe, stable, and permanently affordable housing throughout California. Its members include nonprofit housing developers, local governments, community finance institutions, and housing advocacy groups, as well as individuals.

Representing the plaintiffs are Bay Area Legal Aid, Public Advocates Inc., Public Interest Law Project, and Weil, Gotshal & Manges LLP.

See [here](#) for a copy of the complaint.

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