

PRESS RELEASE

For Immediate Release
October 25, 2017

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Appeal Filed in Affordable Housing Lawsuit Against City of San José

San José – Two San José residents and two non-profit housing advocacy organizations appealed a state court ruling dismissing their claim that the city must follow the state’s Surplus Land Act (SLA), including in the development of the city’s downtown area. Last year San José’s adopted a local policy in conflict with state law, which is likely to result in less affordable housing being built in the city. The SLA requires all cities to prioritize surplus public land for affordable housing when they decide to sell or lease this land. The law 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 argued that it is exempt from following the state law because it is a charter city and as such is able to set its own rules for the sale of surplus land. The lawsuit challenges this assertion.

“The Surplus Land Act states explicitly that it applies to charter cities in California,” said Cristina Peña Vázquez, attorney with Bay Area Legal Aid. “We’re confident that our claim will ultimately prevail and San José will be required to prioritize its surplus land for affordable housing as state law requires.”

San José currently faces a housing affordability crisis with the average monthly rent for a 2-bedroom apartment reaching \$2,570, affordable only to renters making a little over \$100,000 in annual salary.

San José residents Sarah Anderson and Joana Cruz are individual plaintiffs in *Anderson, et al. v. City of San José* who have had to move into overcrowded housing because of rent increases. The organizational plaintiffs are Urban Habitat, which works to pass policies that will preserve, protect, and produce affordable housing throughout the Bay Area; and Housing California, which works to decrease homelessness in California and increase the amount of safe, affordable housing in the state.

“In this time of crisis, when thousands of San José residents – including children and the elderly – are living in the streets or in cars, San José should act as a responsible steward of public land and do what is necessary to ensure all the city’s residents have a home,” said Lisa Hershey, Executive Director of Housing California. “This is the moment to turn the tide. Everyone is rallying to help solve this systemic problem, including the state legislature, which just enacted a package of 15 affordable housing bills signed by the Governor on September 29.”

Ellen Wu, Director of Urban Habitat, one of the organizational plaintiffs in the lawsuit, added that “The depth of the region’s housing crisis requires every community to prioritize public land for public good.”

The policy being challenged in the lawsuit would exempt all surplus land in San José’s downtown area from state affordable housing requirements for five years; it changes the definition of low-income as defined in the SLA to allow for a larger number of higher-income buyers; and it would allow city staff to disregard even these relaxed affordable housing requirements for surplus land anywhere in the city at any time.

“This important case has far-reaching implications throughout California,” said Public Advocates’ deputy managing attorney Sam Tepperman-Gelfant. “All of our state’s 15 largest cities, including Los Angeles, San Diego, Fresno and Oakland are charter cities, where the Surplus Land Act applies.”

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 appeal; [here](#) for a copy of the original complaint.

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