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San Jose's Inclusionary Housing Ordinance Stands after U.S. Supreme Court Declines Review

The U.S. Supreme Court on Feb. 29 declined to review *California Building Industry Association v. City of San Jose*, a California Supreme Court decision affirming the constitutional validity of an inclusionary housing ordinance in the city of San Jose. *For more, see Page 2.*



NLC to Host City Leaders during 2016 Congressional City Conference

The National League of Cities will hold its annual [Congressional City Conference](#) in Washington, D.C. from March 5-9. During the conference, participants from across the nation will engage and meet with U.S. Senate and House of Representatives members and their staff to discuss federal policy issues of paramount importance to cities and local governments. *For more, see Page 2.*



League Continues to Have Concerns with CEQA Guidelines Update Required by 2013's SB 743

The League on Feb. 26 submitted [comments](#) to Gov. Jerry Brown's Office of Planning and Research (OPR) on the Revised Proposal on Updates to the CEQA Guidelines on Evaluating Transportation Impacts in CEQA. Although these have gone through several drafts, the League continues to have serious concerns with the proposed CEQA Guidelines Update. *For more, see Page 3.*

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In *California Building Industry Association v. City of San Jose*, the California Building Industry Association (CBIA) challenged the city of San Jose's inclusionary housing ordinance, which requires developers to comply with certain affordability conditions for all new residential development projects of 20 units or more. CBIA argued that the ordinance imposes an "exaction" on developers' properties, requiring heightened judicial scrutiny under the takings clauses of the United States and California constitutions.

The California Supreme Court disagreed with CBIA, holding that the inclusionary housing ordinance is not a taking of private property for public use such that it is subject to heightened judicial scrutiny. Rather, the Court held that the ordinance is a legislative land-use measure that survives a constitutional challenge as long as it bears a reasonable relationship to the public welfare. Applying the more deferential standard, the Court concluded that San Jose's ordinance is constitutional because it is reasonably related to the public welfare.

CBIA appealed the case to the United States Supreme Court, but the United States Supreme Court declined to review the case, leaving intact the California Supreme Court decision and, in turn, San Jose's inclusionary housing ordinance. Notably, Justice Clarence Thomas filed an opinion concurring in the Court's decision to deny review. Thomas expressed interest in reviewing a case where the precise issue before the court is whether the constitutional takings test established in *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard* applies in cases where the alleged taking arises from a legislatively-imposed condition rather than a discretionary one, an issue which he noted is unsettled in the lower courts.

The League wishes to thank Tom Brown of Burke, Williams & Sorensen for drafting the League's friend-of-the-court brief in the California Supreme Court case.

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This year, the conference will cover a range of topic areas, including:

- Criminal justice reform;
- Federal Transportation Authorization Bill;
- Federal lobbying tips;
- Economic development; and
- Climate change.

League of California Cities President Dennis Michael will be attending the conference along with League Executive Director Chris McKenzie and several members of the League board of directors.

On Tuesday, the League will host a special briefing for U.S. House of Representatives staff on the League's Federal Priorities with a focus on Transportation. As the House will not be in session during the conference, the League encourages all California attendees to attend the briefing and connect with the staff of the representative. Details are below. While RSVPs for this event are not required, the League would like to have a general count in order to appropriately plan.

California attendees registered for the NLC Congressional City Conference are invited to attend the following League-hosted events:

League of California Cities Reception

Monday, March 7

6:00-7:30 p.m.

Thurgood Marshall East Room

Marriott Wardman Park Hotel

2660 Woodley Road, NW

League of California Cities Priorities Briefing for Congressional Staff

Tuesday, March 8

2:30-3:30 p.m.
1416 Longworth House Office Building

Information on the League's 2016 [Federal Priorities](#) is available online, and additional materials will be released this Wednesday, March 2. Printed materials will be available for lobbying at the reception Monday night.

'CEQA' Continued from Page 1...

The public comment period closed on Feb. 29. However, OPR has the ability to issue an additional revised document following public comment. The League would like OPR to consider stakeholder comments and issue a new revised proposal for additional public input.

Background

OPR began to update the CEQA Guidelines following Governor Brown's signature on SB 743 (Steinberg, 2013), which created a process to change the way that transportation impacts are analyzed under CEQA. Specifically, SB 743 required OPR to amend the CEQA Guidelines to provide an alternative to LOS for evaluating transportation impacts. Particularly within areas served by transit, those alternative criteria must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." (New Public Resources Code Section 21099(b)(1).)

Measurements of transportation impacts may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated." (Ibid.) Once the CEQA Guidelines are amended to include those alternative criteria, auto delay will no longer be considered a significant impact under CEQA. (Id. at subd. (b)(2).) Transportation impacts related to air quality, noise and safety must still be analyzed under CEQA where appropriate. (Id. at subd. (b)(3).) SB 743 also amended congestion management law to allow cities and counties to opt out of LOS standards within certain infill areas. (See Amended Government Code Sections 65088.1 and 65088.4.)

Call for 2016 Helen Putnam Entries

Submission Deadline is April 14

Each year the League of California Cities[®] honors outstanding work in member cities across the state through the League Partner-sponsored Helen Putnam Awards for Excellence.

If your city has done remarkable, innovative work in any of the 12 categories listed below now is the time to get your deserved recognition. It is an opportunity to thank your employees and collaborators, gain the appreciation of your residents and feel proud of outstanding contributions made to better your city.

The award recognizes the successes of California cities as demonstrated by beneficial innovations, resourceful efficiencies, improved public service, and overall enhanced public trust and support. The award also provides a great opportunity to have a community celebration of the good work you are doing.

Does your city have an outstanding program that delivers efficiency, quality service and innovation? Enter your program at www.helenputnam.org to compete for the recognition it deserves.

Award categories include:

- CCS Partnership Intergovernmental Collaboration Award;
- Community Services and Economic Development;
- Economic Development through the Arts;
- Enhancing Public Trust, Ethics, and Community Involvement;
- Health and Wellness Programs;
- Housing Programs and Innovations;

- Internal Administration;
- League Partners Award for Excellence in City-Business Relations;
- Planning and Environmental Quality;
- Public Safety;
- Public Works, Infrastructure, Transportation; and
- Ruth Vreeland Award for Engaging Youth in City Government.

Additionally, your city can receive the President's Advocacy Award. This prestigious award honors a distinguished program or individual that best advocates for the League's annual strategic priorities. One outstanding winner may be chosen from the 12 categories.

Your city must be a member of the League of California Cities to apply. To qualify, simply demonstrate that your city offered a program or service that has proven measurable and successful within a minimum of one year of actual implementation. Particular attention and credit is given to applications specifically advancing the League's strategic priorities at www.cacities.org/priorities, which are determined each year by the board of directors.

Online entry deadline is April 14. Submit your application online at www.helenputnam.org.

Please contact [Melissa Lienau](#) with any questions at (916) 658-8216.
