

Bulletin

Court Invalidates Portions of City of Los Angeles's Density Bonus Law

Due to the shortage of affordable housing in California, State and Local officials have enacted laws which create incentives for real estate developers to build affordable housing. These incentives, known as "density bonuses", allow developers to increase the number of units in a project beyond the otherwise maximum allowable residential density if a portion of the additional units are dedicated to use by persons with annual incomes below a designated amount.

On April 13, 2009, a Superior Court Judge issued a ruling invalidating portions of the City of Los Angeles' density bonus ordinance. The City's stated purpose for enacting Ordinance No. 179681, which went into effect on April 15, 2008, was to establish procedures for implementing new statewide density bonus requirements as mandated by the California Legislature in 2005.

The statewide law, commonly known as SB 1818, mandated statewide minimum bonus amounts. Some of the density bonuses authorized by the City's density bonus ordinance exceed the state mandated minimums. According to the Judge, these additional bonuses could have a significant adverse effect on the environment such that environmental review under the California Environmental Quality Act is required before the additional bonus can be granted.

The portions of the City's density bonus that are affected by this ruling deal with:

1. For Sale or Rental Senior Citizen Housing with Low or Very Low Income Restricted Affordable Units;
2. For Sale Housing with Moderate Income Restricted Affordable Units;
3. Land Donation; and
4. Condominium Conversions.

If you have a project in the City of Los Angeles which is in the process of obtaining a density bonus or upon which a density bonus was granted anytime after April 15, 2008, your project may be affected by this ruling.