

Attorney General Brown Sues to Invalidate Pleasanton, California's Illegal Housing Cap

Contributed by Imperial Valley News
Thursday, 25 June 2009

Pleasanton, California - Attorney General Edmund G. Brown Jr. sued the City of Pleasanton to remove its "draconian and illegal" limit on new housing, a significant cause of traffic congestion, air pollution and urban sprawl in the East Bay and Tri-Valley area.

"Pleasanton's draconian and illegal limit on new housing forces people to commute long distances, adding to the bumper-to-bumper traffic along 580 and 680 and increasing dangerous air pollution," Brown said. "It's time for Pleasanton to balance its housing and its jobs and take full advantage of its underutilized land and proximity to BART."

Brown today filed a motion to intervene in Alameda County Superior Court that would force Pleasanton to lift its housing cap. The suit was initially filed by the nonprofit group Public Advocates on October 17, 2006.

In 1996, Pleasanton adopted Measure GG, which imposed a strict, permanent cap of 29,000 total housing units within the city. At the time, Pleasanton had 21,180 homes, apartments and condominiums. The cap, therefore, allowed fewer than 8,000 new housing units to be built within city limits, regardless of demand or state law requirements.

The City is now on the verge of adopting a General Plan update, which calls for the creation of 45,000 additional jobs by 2025, while retaining the 29,000 limit on housing. This, Brown contends, violates state law, which requires every California city to provide sufficient housing to accommodate its fair share of regional needs.

The State requires Pleasanton to provide 3,277 additional housing units between 2007 and 2014. The cap, however, allows for only 2,000 more to be built - and that does not account for additional housing which will likely be required after 2014.

In the past 10 years, job growth in Pleasanton has nearly doubled - from 31,683 to more than 58,000. Yet, the number of new housing units has not kept pace with demand. This is despite the fact that there is ample land for development, including property adjacent to the Pleasanton BART station. Unless the city lifts its housing cap, this and other land near transit will most likely not be utilized for housing.

As a result of the cap, many workers have been unable to find affordable housing within Pleasanton. A 2005 Association of Bay Area Governments study found that 79 percent of Pleasanton's 58,000 employees lived outside Pleasanton, and their commutes can take two hours per day or more.

Brown's suit demands that Pleasanton's housing cap be repealed - so that jobs and housing can increase in proportion with each other.

In his suit, Brown contends that:

- Pleasanton is violating state law by enforcing a housing cap that prevents the City from accommodating its fair share of the regional housing need, as required by state housing element law (Gov. Code §65583.).
- Pleasanton's housing cap violates the state constitution, which prohibits cities from adopting ordinances that conflict with state law.
- Pleasanton's general plan is internally inconsistent, in violation of California Government Code Section 65300.5. The City's existing land use element contains the housing cap limit of 29,000 housing units, while its housing element recognizes that the cap must be addressed because it prevents the City from meeting its fair share of regional housing needs.

If Pleasanton continues to enforce its housing cap, the consequences for the region include:

- Increased traffic congestion and longer commute times. Interstate 580 has some of the longest commute times in the region, with evening eastbound commuters delayed 7,410 hours and morning westbound commuters delayed 5,120 hours in 2007.
- Urban sprawl. Communities outside of Pleasanton will continue to lose farmland and open space to accommodate Pleasanton's workers. These communities will have to build more schools, fire and police stations to keep up with anticipated growth.
- Increased greenhouse gas emissions. More people will be commuting for longer periods and over greater distances. Pleasanton's CO2 output was 1.388 million tons in 2008. When the City is projected to reach 105,000 jobs in 2025, it is estimated its CO2 output will increase to 1.940 million tons. The increase is the equivalent of adding 120,000 cars to the road every year.
- Increased dependence on foreign oil.

Transportation is the largest contributor to California's greenhouse gas emissions. The California Air Resources Board estimates that transportation is currently responsible for 38 percent of the greenhouse gas emissions in the state. Transportation accounts for 50 percent of greenhouse gas emissions in the Bay Area.

Brown has reached several agreements and settlements with local governments and businesses across California to help them reduce their greenhouse gas emissions. Some of his actions include:

- A landmark settlement with San Bernardino County which established a greenhouse gas reduction plan that identifies sources of emissions and sets reduction targets.
- An agreement with Stockton requiring it to identify and reduce greenhouse gas emissions, permit construction of thousands of new residential units within its current city limits, develop a rapid transit bus system and require all new buildings to be energy efficient.
- An agreement with ConocoPhillips that offsets greenhouse gases attributable to an oil refinery expansion in Contra Costa County.

An agreement with the Port of Los Angeles that identifies and reduces greenhouse gas emissions generated from port operations.

Brown's suit against the City of Pleasanton is attached.