

From: [Courtney Welch](#)
To: [Comments](#); [Chris Anstead](#); [Illece Buckley Weber](#); [Deborah Klein Lopez](#); [Penny Sylvester](#); [Jeremy Wolf](#)
Cc: [Kimberly Rodrigues](#)
Subject: Re: Ordinance No. 23-471: Objective Zoning, Design, and Subdivision Standards
Date: Wednesday, July 12, 2023 1:29:21 PM
Attachments: [Agoura Hills - SB9 Obj. Standards Letter - 2023.07.12.pdf](#)

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Dear Agoura Hills City Council,

Attached you will find a letter regarding Ordinance No. 23-471: Objective Zoning, Design, and Subdivision Standards for your review.

Thank you.

--

Courtney Welch
Investigation and Enforcement Director
California Housing Defense Fund





Jul 12, 2023

City of Agoura Hills
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Re: Ordinance No. 23-471: Objective Zoning, Design, and Subdivision Standards

Dear City Council,

The California Housing Defense Fund (“CalHDF”) submits this letter to, once again, remind the Council of its obligation to abide by all relevant state laws when considering the proposed Objective Zoning, Design, and Subdivision Standards in Ordinance No. 23-471 (the “proposed standards”). On June 28th, 2023, CalHDF submitted a letter informing the city that the proposed standards do not adhere to these laws: many of them fail to articulate objective standards. We write again for tonight’s meeting to remind the Council that they must comply with the Housing Crisis Act of 2019 (SB 330), Senate Bill 9 (“SB 9”), and other state housing laws.

SB 330 bars cities from “[i]mposing or enforcing design standards [...] that are not objective.” (Gov. Code § 66300, subd. (b)(1)(C).) SB 9 allows cities to impose “objective zoning [...] subdivision [...] and [...] design” standards (but not subjective standards) on SB 9 projects. In addition, the Housing Accountability Act (HAA) renders non-objective standards unenforceable. (See *California Renters Legal Advocacy and Education Fund v. City of San Mateo* (2021) 68 Cal. App.5th 820, 839-44 (overturning city’s denial of housing project based on design guidelines requiring “a transition or step in height” where a building is more than one story taller than its neighbors on the grounds that it was not objective).) SB 330, SB 9, and the HAA define “objective” as “being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code § 65589.5, subd. (h)(8); Gov. Code § 66300, subd. (a)(7); see also Gov. Code § 65852.21, subd. (i)(2) [similar language]; Gov. Code § 66411.7, subd. (m)(1) [similar language].)

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Unfortunately, several provisions in Ordinance No. 23-471 fall short of this requirement. CalHDF urges the Council to carefully review all the proposed standards for objectivity and specifically points out a few of the most egregious examples:

- Section 9293.12(B): “...the new dwelling unit shall have the same architectural style as the existing unit...” The phrase “the same architectural style” is not objective. Architectural styles are not cleanly defined, and what counts as “the same” or a different architectural style is in the eye of the beholder. An applicant cannot know ex ante and with certainty whether their proposed design will satisfy the ordinance, and thus the ordinance is unenforceable on this point.
- Section 9293.12(F): Most of this section is acceptable. However, it is not clear what counts as an “earth-tone color palette” or “fluorescent or neon colors.” The City must draft more specific language before it can impose such rules on SB 9 applicants.
- Section 9293.12(C)(1): “Visual interest shall be created through the integration of a minimum of two different roof forms [...] and designs...” It is not clear what counts as “visual interest,” and the city might, under this language, reject applications based on subjective aesthetic preferences. That is not allowed.
- Section 9293.12(H)(2)(a): This section also uses the ambiguous phrase “visual interest,” which should be struck (at minimum).

CalHDF appreciates Agoura Hills’s effort to establish rules for SB 9 projects. We remind the City, however, that it must take care to follow the law in doing so. The current proposal needs at least a few revisions before it can be finalized and implemented in accordance with state law. We are re-submitting this letter, as the proposed ordinance has not been amended since we submitted it in June.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



Courtney Welch

CalHDF Director of Investigations and Enforcement