

COUNCIL AGENDA: 8/18/20

ITEM: 8.1

**SUBJECT: DOWNTOWN RESIDENTIAL HIGH-RISE INCLUSIONARY HOUSING
ORDINANCE IN LIEU FEE REDUCTION**

Issue: Given the proposed ordinance is proposed, the 80% Certificate of Occupancy requirement is not achievable given the typical construction timelines to build hi-rise projects, thereby reducing the incentive for these projects to proceed. This could potentially affect some projects that pull permits by June 2023.

As an example to show that the proposed occupancy requirement will be unachievable, the following chart illustrates the fee schedule by year with the current proposed 80% occupancy requirement and projected year of completion given a construction schedule that could be 24 months plus or minus depending on the complexity of the project.

<u>Project permit Date</u>	<u>Fee</u>	<u>80% occupancy requirement</u>	<u>Construction Timeline months</u>	<u>Projected Completion Year</u>
June 2023	\$0.00	June 30, 2025	24±	2025
June 2024	\$13.00	June 30, 2025	24±	2026
June 2025	\$23.00	June 30, 2025	24±	2027
After June 2025	\$43.00			

Assuming a 24± months (typical) construction timeline for hi-rise residential, project paying in-lieu fees for years by June of 2024 and 2025 would not be able to participate in the fee reduction as these projects cannot be delivered in a year or less to meet the 80% occupancy requirement. This could also impact projects that pull permits by 2023 depending on the size, complexity and other project construction variables (i.e. weather, material supply chains, labor supply etc.)

Solution Options:

- Eliminate the 80% Occupancy requirement recognizing that once building permits have been pulled financing requirements are in place that include performance and completion guaranty's to satisfy construction lending requirements and assure project delivery and completion. *(Reduces pressure on City staff to inspect for and produce 80% Certificates of Occupancy. Eliminates financing uncertainty on what fee will be incurred.)*
- Create a reasonable occupancy schedule (36 months) from date of permit to allow for 80% requirement to be met. This provides a project specific occupancy schedule for projects that pull permits by the fee scheduled date. *(Would not deter projects from advancing as they approach the June fee increase dates.)*

WORKING PARTNERSHIPS USA

August 18, 2020

Honorable Mayor and City Council
City of San José
200 E. Santa Clara Street
San Jose, CA 95113

Dear Mayor Liccardo and City Council Members:

In Item 8.1 on today's City Council agenda, "Downtown Residential High-Rise Inclusionary Housing Ordinance In Lieu Fee Reduction," the City is considering once again expanding and extending the Downtown High-Rise Incentive. This subsidy to a select group of developers was first introduced as a temporary measure in 2007. In the ensuing 13 years, the Council has repeatedly extended and expanded this subsidy. The item before you today would once again expand the subsidy, making additional projects eligible if they occur during the extended timeline. Yet not a single one of those new projects will have any local worker protections -- because for over two years, the City has failed to act on protecting construction workers.

As a result of San Jose willingly turning a blind eye to worker exploitation, wage theft in local construction has reached epidemic proportions. A Stanford study found 4,180 San Jose construction workers have been victims of wage theft, robbed of over \$12 million dollars - and that includes only documented cases resulting in final federal administrative decisions or state judgements.

This crime is especially directed against vulnerable Latino and Asian workers. Wage theft targeting workers of color and immigrants is a major source of pay inequity: Latino construction workers in San Jose bring home 38% less pay than white construction workers.

When unscrupulous corporations steal from their workers, it affects not just the worker themselves, but their family and their entire community. Millions of dollars are being stolen from our families who have members working in construction.

Allowing unscrupulous companies to get away with wage theft also harms the many small business entrepreneurs who are trying to play by the rules and treat their workers fairly, but can't compete with those who cheat.

And even when workers speak up and go through the whole intimidating process to report wage theft, file a claim, get a hearing, and get a ruling in their favor -- finding their employer guilty of wage theft, and ordering them to pay -- most workers who win their cases still don't get paid. 83% of workers who win a favorable wage theft judgment from the State Division of Labor Standards Enforcement never get a penny.

These same workers are often also subjected to dangerous and illegal conditions on the jobsite. Worksite safety violations in construction often lead to injury or even death. Construction has one of the highest fatality rates of any California industry; according to the 2016 Census of Fatal Occupational Injuries, the rate of fatal occupational injuries in construction is more than twice as high as for all workers in the state, and higher than in any other industry except for transportation/utilities and agriculture.

WORKING PARTNERSHIPS USA

The reason is obvious: the same bad actors who willingly violate a court order to pay back wages are very likely to also violate health and safety requirements. In the current public health crisis, we must be doubly concerned that those scofflaw employers may be equally likely to violate public health orders.

San Jose must hold bad actors accountable when they've broken the law. It is more urgent that even to enforce worker protections in construction - not only to save workers' livelihoods, but to save lives.

On behalf of Working Partnerships USA, I urge the Council to defer yet another expansion of developer subsidies until it has fulfilled its promise to pass a Responsible Construction ordinance protecting workers.

Sincerely,


Louise Auerhahn

Fw: No to Breaks for Developers

City Clerk

Tue 8/18/2020 11:44 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>;

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: E A <[REDACTED]>
Sent: Tuesday, August 18, 2020 11:41 AM
To: City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>
Subject: Fwd: No to Breaks for Developers

[External Email]

Dear Councilmembers and Mayor,

I am absolutely appalled that you all are considering giving Developers a handout while we are in a Global Healthcare Crisis and the City of San Jose is in a Housing Crisis. To not have them pay the Affordable Housing fee is ridiculous. We need more money for Affordable Housing and we need more affordable housing built. We should not even give the Developers the option of opting out of building affordable housing in the first place since we have not met our city or regional housing goals for low and very low income developments.

Because of our lack of affordable housing Blacks and Latinxs, especially are dying at disproportionate rates because they cannot physically distance from the people and multiple generations of family living in their home. Because we don't have enough affordable housing people are forced onto the streets to sleep in their cars and forced to experience trauma, night after night and may turn to drugs as a way to cope the cold, the stress, the pain of being neglected by our government for the sake of profit. They may develop chronic health problems and PTSD and cost our system more money than if we just housed them in the 1st place.

City Councilmembers, it is your people who are in need now, not corporate developers.

Thank you.

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Fw: Just FYI

City Clerk

Tue 8/18/2020 5:24 PM

To: Agendadesk <[REDACTED]>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

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From: VanderVeen, Rachel <[REDACTED]>
Sent: Tuesday, August 18, 2020 4:51 PM
To: City Clerk <[REDACTED]>
Cc: Alvarez, Karina <[REDACTED]>
Subject: FW: Just FYI

Public comment

Rachel VanderVeen

Deputy Director
Housing Department
408.535.8231

From: Mathew Reed [mailto:[REDACTED]]
Sent: Tuesday, August 18, 2020 3:58 PM
To: Burton, Chris <[REDACTED]> VanderVeen, Rachel <[REDACTED]>
Cc: Leslye Corsiglia <[REDACTED]>
Subject: Just FYI

[External Email]

Pandemic Development - You don't go vertical without financing

- Office - 512,878 SF, 3155 Olsen Drive (Santana Row office buildings west of Winchester Blvd). Permit issued 5/21/20.
- Data Center - 214,000 SF, 2001 Fortune Drive (industrial park in the Berryessa area, north of the BART UV). Permit Issued 7/20/20
- Office - 1,341,867 SF, 200 Park Avenue (Downtown, catty-corner from the original Adobe building). Permit issued 7/31/20 (Original City docs said 800,000 sq ft, but permit says 1.3 mil)

512,878	20	\$10,257,560	May
214,000	10	\$2,140,000	July
<u>1,341,867</u>	<u>30</u>	<u>\$40,256,010</u>	July
		\$52,653,570	

421 Affordable Units the city cannot fund.

Everyone deserves a safe, stable, and affordable home.

JOIN US IN MAKING THAT A REALITY!

BECOME A MEMBER TODAY.

sv@home



Act with us. [Become a member](#) today and join us in making home a reality for all.

For all COVID-19 related housing updates & resources [click here](#)

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