

PRESS RELEASE

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Court Rules that California Charter Cities Must Prioritize Surplus Public Land for Affordable Housing Development

Oakland – On November 26, 2019, California's Sixth Appellate District Court of Appeal issued a decision in *Anderson v. City of San Jose*—a case that has profound implications for the affordable housing crisis throughout California. The Appellate Court ruled that San Jose is not exempt from complying with the Surplus Land Act—a state law that requires local governments to prioritize affordable housing when disposing of surplus government land.

This ruling will affect all 121 charter cities in California, which include the largest metropolitan areas in the state (Los Angeles, San Diego, San Francisco, and Oakland are all charter cities).

"Our low-income clients celebrate the court's ruling at a moment when displacement and the lack of affordable housing in our state have reached crisis proportions," said Rebekah Evenson, Director of Litigation and Advocacy at Bay Area Legal Aid, which is lead counsel in the case.

"The justices recognized that 'public land for public good' isn't just a slogan, it's the law of the land in California," said Sam Tepperman-Gelfant, deputy managing attorney at Public Advocates Inc., which is co-counsel in the case. "Every city can and must prioritize its surplus land for homes affordable to lower-income families."

Co-counsel Michael Rawson, Director of the Public Interest Law Project, added that "this should nip in the bud the view of some charter cities that, unlike the rest of the cities in California, they can't ignore their obligation to make surplus public land available for affordable housing."

Low-income San Jose residents Sarah Anderson and Joana Cruz, and nonprofit organizations Urban Habitat Program and Housing California brought this case in 2016 to challenge San Jose's adoption of a policy that conflicts with the Surplus Land Act, and to enforce legal protections for the development of affordable housing. San Jose's refusal to abide by state affordable housing law would have caused disproportionate harm to low-income residents, many of whom are people of color, and many of whom have already been priced out of the city.

The superior court ruled that the Surplus Land Act does not apply to charter cities. Today's Appellate Court ruling reverses this decision, holding that the shortage of sites available for affordable housing is a matter of statewide concern, and that San Jose must follow state affordable housing law.

Evenson added, "We look forward to San Jose and charter cities throughout California complying with this important state law."

Representing the Plaintiffs are Bay Area Legal Aid; Public Advocates, Inc.; Public Interest Law Project; and Weil, Gotshal & Manges LLP.