

December 19, 2025

VIA EMAIL ONLY

David Pai, Esq.
Supervising Deputy Attorney General
CALIFORNIA DEPARTMENT OF JUSTICE
1515 Clay Street, 20th Floor
Oakland, CA 94612

Re: Comment Letter Government Code section 65589.5(h)(6)(D)(iii) -Seaside Ridge Project City of Del Mar

Dear Mr. Pai,

The City of Del Mar is in receipt of your comment letter dated December 5, 2025, provided pursuant to Cal. Gov. Code Section 65589.5(h)(6)(D)(iii). This letter is in response to the comments your office provided to the City of Del Mar.

First, it is disappointing that the City was not contacted or asked to provide any information prior to the transmittal of your comment letter. As such, we would like to take this opportunity to provide objective and undeniable facts of the Seaside Ridge housing project and the City's many attempts to lawfully process the Seaside Ridge development application. The assumptions made in your letter reflect the many misrepresentations that the Seaside Ridge development team has made to other governmental agencies and to the broader public regarding their proposed project. While representations made by the developer sound compelling, objective facts demonstrate an entirely different reality.

In sum, the developer believes that the Builder's Remedy applies to their development proposal and that the California Coastal Act and the California Environmental Quality Act do not apply. However, according to state housing laws this is not the case. As demonstrated below, every action the City has taken regarding the Seaside Ridge application is undeniably consistent with state housing laws and more importantly with the California Coastal Act.

The City's goal is to produce a development plan that is consistent with state housing laws, the California Coastal Act, and the City's certified Local Coastal Program and Community Plan. And where the two statutes are in conflict, the City will harmonize the competing statutes in a manner that produces a beneficial housing project for lower income households. The Seaside Ridge applicant, however, believes that state housing laws have no guardrails that allow for the protection of coastal resources and this misconception has resulted in four (4) incomplete development applications by their refusal to apply for a Local Coastal Program Amendment.

On May 23, 2023, counsel for Seaside Ridge filed a complaint with the California Housing and Community Development Department (“HCD”). The allegations submitted by Seaside Ridge in that complaint are the same allegations stated in your letter. However, the City and the Seaside Ridge development team were afforded an interview with HCD, which was followed by the City providing HCD with substantiating documentation. On August 15, 2023, the HCD Housing Accountability Unit concluded their investigation which resulted in no further action.

Inconsistency with the Coastal Act

The City of Del Mar is one and half (1 ½) miles wide and supports approximately 4,000 residents. The entire City is located within the Coastal Zone and the bluff tops along the shoreline are fragile and environmentally protected. The bluff top protections are codified in the City’s certified Local Coastal Program (“LCP”). The current LCP Land Use Plan density for the Seaside Ridge site is R1-40, which is a very low density of one (1) dwelling unit per one (1) acre. (City of Del Mar LCP pg. 16).

The Seaside Ridge project is a 259-unit project on an approximately six acre site which far exceeds current LCP density allowances. The area is protected by multiple Coastal resource overlay zones that are part of the City’s LCP, including the “Coastal Bluff”, “Lagoon”, “Beach” and “Bluff, Slope, and Canyon”, and the latter establishes set grades and setbacks which the Seaside Ridge project violates with their access road and placement of structures. The Seaside Ridge project proposes structures that exceed 56’ and the height limitation for the project site is 14’.

As you are aware, state housing laws do not supersede the California Coastal Act and that is true of the Bulder’s Remedy as well:

*“Nothing in this section shall be construed to relieve the local agency from complying with the *** California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code.” (Cal. Gov. Code Sec. 65589.5 (e).*

In order for the Seaside Ridge project to be successful the City’s certified Local Coastal Program must be amended. Each of the four (4) incomplete letters provided to the Applicant have the Applicant submit a Local Coastal Program Amendment application, which the Applicant has refused to submit. Rather, the Applicant has attempted to self-certify that their project complies with the California Coastal Act. However, there is no provision in the California Coastal Act that allows a developer to self-certify that their project has met the requirements of the Act.

The Builder's Remedy Does Not Apply- Preliminary Application is Void and Not Because of a Clerical Error

The Applicant continues to falsely assert that the Builders Remedy applies to the Seaside Ridge project because at the time of submittal of their Preliminary Development Application, October 4, 2022, the HCD had not formally certified the City's Housing Element. The formal HCD certification letter was received on May 31, 2023. The Applicant submitted the second (full) application on March 30, 2023; at that time the proposed project reflected a revised development proposal that grew the project in size and scope by 28%, which voided the ability of the Applicant to assert the benefits of the Builders Remedy compounded by the fact that they refused to complete the application process. The project growth was not a mistaken calculation, wishful thinking, or an oversight on the part of the City. The square footage was clearly stated by the Applicant in the City's Uniform Development Application, and in two other places on the application.

The proposed increase in project size and scope is important because State housing laws state that the consequences of a project growing beyond the scope identified in the Preliminary Development Application result in the Preliminary Development Application being considered at that time as to be "deemed not being submitted:"

*"After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or **square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions.***

For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations)." (CA Gov. Code Sec. 65941.1(c)).

The City, like most cities, relies on a Uniform Development Application form and format. The Preliminary Development Application by the Seaside Ridge Applicant showed a total square footage (sf) of 308,968 sf. The full application submitted in March 2023 showed a total square footage of 396,259 sf. This was not inconsequential; the Applicant added a new parking level to the development and made other growth adjustments. In attempts to underplay the growth, the

Applicant asserts that an un-tabulated chart included in the project plans reflects a growth of less than 18%. This chart is riddled with errors and in order to determine the scope of the project many assumptions have to be made and math errors corrected. Later, the Applicant presented this table to the City and we assume your Department and HCD showing that the project did not grow by more than 20%, but the Applicant altered the table by including summary table boxes which were not part of the original application submittal. In sum the controlling document is the Uniform Development Application and the other similar narrative descriptions provided by the Applicant. These narrative descriptions were relied on by the City's planning staff in determining the scope and growth of the Seaside Ridge project, a methodology used by cities throughout the state.

HCD Grant and Seaside Ridge Misconduct

In 2022, HCD awarded the City a Housing Acceleration Program (HAP) capital grant in the amount of \$1.5 million to complete feasibility studies to facilitate the construction of affordable housing on 22nd District Agricultural Association's (22nd DAA) land (also commonly referred to as the "Fairgrounds.") Locating housing on the Fairgrounds property has the support of State Senator Catherine Blakespear, State Assemblymember Tasha Boerner, San Diego County Board of Supervisors, San Diego Association of Governments, neighboring City of Solana Beach, and other state and local officials.

To meet its assigned Regional Housing Needs Assessment goals, the City included a multifaceted set of strategies in the certified 6th Cycle Housing Element, including identifying the 22nd DAA site to accommodate at least 54 lower income units. In April 2024, the City and 22nd DAA executed an Exclusive Negotiating Rights Agreement for the investigation and feasibility of developing at least 61 lower income units on 22nd DAA property. The Seaside Ridge property is a "contingency" site in the City's Housing Element should the Fairgrounds housing site fail.

Ms. Lazier and her development team have been actively engaged in opposing the Fairgrounds housing site. The Seaside Ridge team appears at nearly every Board meeting where they attempt to derail the efforts made by HCD, the County, and the City to gain affordable housing on 22nd DAA property. They have publicly stated that their project is "shovel ready," and that it will satisfy all of the City of Del Mar's RHNA goals. None of these statements made by Carol Lazier and her development team are accurate and the only purpose they serve is to derail the Fairgrounds Housing project so that the Seaside Ridge project can move into a primary position. It is an attempt to undercut the purpose of the HCD grant and the will of State and local elected officials.

Notice

Consistent with Cal. Gov. Code Cal.Gov. Code Section 65589.5(h)(6)(D)(iii), the City within five days posted what the Applicant framed as a "cease and desist" on the City's webpage and forwarded it to the Clerk of County of San Diego with instructions on posting on the County's

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webpage. The Applicant clearly exceeded their authority by replacing a notice provision with a cease and desist order. However, the City provided findings and directions to the Applicant within 90 days consistent with state law.

Your letter of comment will be considered as the Code requires and will be made part of the record consistent with Cal. Gov. Code Sec. 65589.54(h)(D)(iii).

The Seaside Ridge Appeal

The Applicant filed a petition for writ of mandate to compel the City to deem the development application “Complete.” However, the petition was dismissed by the Court on July 30, 2025, with prejudice, because the Applicant failed to exhaust administrative remedies. The City has an appeal process that includes a two-step process that involves an initial consideration hearing that is used to determine if there are grounds to move to the second step, which is a de novo hearing. Even though the Seaside Ridge Applicant failed to timely file an appeal on the City’s Incomplete Application determination, the City allowed the Applicant a courtesy appeal to air their claims in a public hearing before the City Council. The initial consideration hearing was held on September 22, 2025. There, Ms. Lazier’s counsel testified to the full scope of their concerns. However, as required per the Del Mar Municipal Code, there were not two Councilmember votes to move the matter to a de novo hearing thereby upholding the Planning and Community Development Director’s Incomplete Application determination.

The City Stands Ready to Timely Process the Seaside Ridge Project Application

The City has and continues to promptly process the Seaside Ridge project application. The City has clearly outlined what is needed from the Seaside Ridge development team in each of the four incomplete letters provided to them to achieve a “Complete” application status that would result in processing of the project. In sum, the documents needed are 1) Coastal Act compliance; 2) CEQA compliance; and 3) associated fees. These requirements were neither added to nor taken away when the City delivered its incomplete letters to the Applicant. Each incomplete letter was followed by the City receiving an extensive legal memorandum that rehashed that the Builder’s Remedy applies, CEQA and the Coastal Act does not. Again, neither is the case.

Offer to Joint Plan the Project

The City Manager reached out to Carol Lazier to jointly plan the Seaside Ridge project. This offer was an attempt to harmonize the coastal resource protection issues with the low-income housing goals of the project. The City clearly stated to Ms. Lazier that there is a path forward in resolving issues heights, density, access, bluff geologic stability, and traffic. This good faith offer

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was met with outrageous bad faith demands that were clearly intended to derail any joint planning effort.

The City remains committed to meet its low-income housing goals and wholeheartedly supports those goals. The City remains open to a good faith joint planning exercise where we believe it is possible for the Seaside Ridge's project goals to be harmonized with the requirements of the California Coastal Act.

Meeting Request

The City requests a meeting with your Department to provide a detailed history of the Seaside Ridge application process, the actions of the Seaside Ridge team, and more importantly how the Department can help the City reach its housing goals.

Sincerely,

Ralph T. Hicks

Ralph T. Hicks
Assistant City Attorney, City of Del Mar

cc: Del Mar City Council
Leslie Devaney, City Attorney
Ashley Jones, City Manager

