

# EXHIBIT A

## SB 330 Overview

- The purpose of SB 330 is to eliminate discretion of local governments regarding approval of housing projects which are consistent with existing general plan designation and all other objective criteria. (Cal. Gov. Code §§ 65589.5(a)(2)(k), 65589.5(b)) In other words, it is intended to remove subjectivity from the approval process.
- SB 330 contains a preapplication process, which when completed results in the vesting of all local land use regulations for 180 days and for the duration of the processing of the completed application once submitted within the 180 days. (Cal. Gov. Code § 65589.5(o); See also Cal. Gov. Code § 65941.1 (d)) That means that for a specified period of time those regulations cannot be altered.
- The main provision in SB 330 is that a locality cannot deny project approval to any housing proposal which has a residential general plan designation and is consistent with all local objective criteria. (Cal. Gov. Code § 65589.5(j); See also *California Renters Legal Advocacy and Education Fund (CARLA) v. City of San Mateo*, 68 Cal.App.5th 820, 836-37 (2021)). If it does so, it can be subject to a considerable fine. (See Cal. Gov. Code § 65589.5(k)(1); See also Cal. Gov. Code § 65589.5(l))
- Objective criteria are any standards contained in the controlling land use regulations including, but not limited to, subdivision requirements, development standards, zoning, specific plan and general plan designations and provisions. (See Cal. Gov. Code § 65589.5(j))
- If there is a dispute involving what the objective criteria mean, the presumption is that the formulation advanced by the applicant prevails so long as there is “substantial evidence” to allow a “reasonable person” to agree with that interpretation. (Cal. Gov. Code § 65589.5(f)(4)) This is a reversal of the position which has legally governed such matters historically and is highly favorable to the applicant. (See *California Renters Legal Advocacy and Education Fund (CARLA) v. City of San Mateo*, 68 Cal.App.5th 820 (2021)).
- To deny a project which is consistent with all objective criteria, a locality must find that the proposed project “would have a specific adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density”, doing so by relying upon objective criteria as opposed to subjective judgements. (Cal. Gov. Code § 65589.5(j))
- If such a denial finding is judicially challenged by an applicant, the standard of review is a “preponderance of the evidence.” (Cal. Gov. Code § 65589.5(j)(1); See also *California Renters Legal Advocacy and Education Fund (CARLA) v. City of San Mateo*, 68 Cal.App.5th 820, 837 (2021), recognizing that when a public entity disapproves a project subject to HAA protections, the entity bears the burden of proof that its decision conformed to state law.) That means a court must factually assess the actual conclusion reached by the

locality, which is another reversal of a standard principle long employed in land use law. As a result, a locality must carefully substantiate its position and if it fails to do so or cannot do so, a court is required to nullify the finding.

- If a locality's code and other governing provisions are silent or inconsistent on a subject, the locality must approve a SB 330 project which otherwise is consistent with all objective criteria. The only exception to this proposition is where a locality can make the previously referenced finding that approval "would have a specific adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density", with that finding being reviewable pursuant to the "preponderance of the evidence" standard. (See Cal. Gov. Code § 65589.5(j))
- SB 330 does not eliminate required CEQA compliance. (Cal. Gov. Code § 65589.5(e))