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Via U.S. and Electronic Mail

March 27, 2025

Travis Brooks
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Re: Appeals of Community Development Department Director's Determination Re Arya and Lux SB 330 Planning Applications

Dear Travis:

I am acknowledging receipt of the appeals of Town staff's determination that, because the Arya and Luxe planning applications remain incomplete, the projects are no longer vested, pursuant to Government Code Section 65941.1(e).

As you know, Government Code Section 65941.1(e) provides as follows:

(1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.
(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force and effect.

(3) This section shall not require an affirmative determination by a city . . . regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

I read Section 65941.1 to provide that applicants are required to complete the planning application within 90 days after the first 180-day period.[1]

That said, I recognize of the import of this question. Therefore, I requested a legal analysis on the meaning of Government Code Section 65941.1(e)(2) from the law firm of Goldfarb & Lipman. I have enclosed a copy of that analysis, which concludes that Section 65941.1(e)(2) provides for a single 90-day period, in addition to the initial 180-day period in which to render a planning application complete. As you can see from the enclosed, this conclusion is based on the plain language of the statute, the statutory scheme as a whole, the legislative history of Government Code Section 65941.1, and the purpose of the legislation, which was to expedite the production of housing in California. The Town is concerned that allowing unlimited 90-day periods within which to complete the application will delay rather than speed up the production of housing in Los Gatos.

In order to provide certainty on this question to both the Town and project applicants, the Town will be seeking declaratory relief as to the correct interpretation of Section 65941.1, since no appellate court has definitively interpreted the section. We stress that the Town is seeking declaratory relief in good faith, so that all parties, not just the Town, can obtain judicial guidance on how to apply Section 65941.1's reference to "the 90-day period" within which to complete the application. It is not the Town's intention in any manner to delay or "effectively disapprove" these planning applications. In fact, the Town does not intend to make a final decision on these two applications until after receiving the court's opinion. Further, the Town will seek to expedite the court's resolution of the issue.

Put simply, the Town needs a judicial opinion on this important question of statutory interpretation. Crucially, while the Town seeks a judicial opinion, it will continue to process the Arya and Luxe planning applications. In addition, the Town will schedule the appeals of the Town's determination for consideration by the Town Council as soon as the Town has obtained a judicial opinion.

Finally, we want to be sure you are aware that Los Gatos is fully committed to

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[1] However, the Arya and Luxe applicants vested to Town guidelines providing that applicants were eligible for two additional 90-day periods in which to submit complete planning applications and remain vested. As a result, the Arya and Luxe applicants were provided with two additional 90-day periods in which to render the planning applications complete.

expeditiously meeting its obligations under State Housing Law. The Town is proud of its housing accomplishments, which include exceeding its RHNA allocation for the 2015-2023 Housing Element period, obtaining certification of a 2023-2031 Housing Element that accommodates the Town's RHNA allocation of 1993 units with a buffer, and approving 340 residential units thus far in this housing cycle.

Please let me know if you have any questions in the interim.

Very truly yours,

Gabrielle Whelan
Town Attorney

cc: Barb Kautz, Esq., Goldfarb & Lipman

Enclosure

goldfarb lipman attorneys

1300 Clay Street, Eleventh Floor
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March 27, 2025

memorandum

To
Gabrielle Whelan, Town Attorney

From
Dolores Bastian Dalton
Barbara E. Kautz

RE

The Meaning of Government Code Section 65941.1(e) (2)

You have asked for our analysis of Government Code section 65941.1(e)(2), and specifically, whether the 90-day period referred to in that section resets after each resubmission of an application. We understand that, in recent appeals, development applicants have argued that a preliminary application remains in effect so long as applicants re-submit an application found incomplete within 90 days after receiving a list of incomplete items, allowing successive and unending 90-day periods after each incompleteness determination. In our view, Government Code Section 65941.1(e)'s reference to "the 90-day period" within which to submit specific information needed to complete a preliminary application likely refers to a single 90-day period. As discussed below, the plain text of the statute, the context, the legislative history, and the public policy of expediting housing production behind the Housing Crisis Act of 2019 (Government Code Sections 65941.1, 65943 and 66300) support this reading.

The Preliminary Application

The Housing Crisis Act created the "preliminary application." A preliminary application allows a developer to submit a specified list of information about a proposed housing project to a local agency in an abbreviated application, before formally applying for project approval. (Government Code Section 65941.1.)[1] The primary effect of the preliminary application is that the proposed project becomes "vested" to the local agency's development standards, fees, and zoning rules that apply to the project when a complete preliminary application is submitted, with limited exceptions. (Section 65589.5(o).) Changes in those local rules that might make the project more expensive or difficult are not permitted to apply to the project, while the preliminary application is in effect.

[1] All unlabeled statutory references are to the Government Code.

In a significant change in the law, the preliminary application allows developers to "vest" housing projects very early in the planning process. The local agency's rules in effect when a complete preliminary application is submitted remain applicable throughout the development review, even if local ordinances change later. This is an exceptional benefit conferred for minimal effort, designed to eliminate a good deal of the risk and uncertainty inherent in land use entitlement, in exchange for quick production of housing.

The Housing Crisis Act also requires that a project proponent must complete a formal application and move a project forward expeditiously, or else lose vesting. To maintain vesting, the development proponent must submit an application for approval of the project under the Permit Streamlining Act (PSA) (Sections 65940 *et seq.*, 65941, and 65943). The deadline for submitting the regular project application is 180 calendar days after submitting a preliminary application that contains all of the statutorily-required information. (Section 65941.1(e)(1).) That section states:

> (e)(1) **Within 180 calendar days** after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project **that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5**. (Emphases added.)

We are addressing the correct interpretation of Section 65941.1(e)(2),[1] which states:

> (e)(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943 [the Permit Streamlining Act], the development proponent shall submit the specific information needed to complete the application **within 90 days** of receiving the agency's written identification of the necessary information**. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.** (Emphases added.)

The Town, along with other local agencies throughout the State, have read this to mean that, after the 180-day period to submit a complete application expires, this provision refers plainly to a single 90-day review period (**the** 90-day period) within which a project applicant must complete a development application, in order to maintain the extraordinary vesting benefit conferred by the Housing Crisis Act. This reading would give an applicant at least 270 days total to merely submit plans that include all items required by the local agency's application form, in order to maintain vesting.

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[1] Formerly numbered Section 65941.1(d)(2); the pertinent section was renumbered effective January 1, 2025 when subdivision (b), related to fee estimates, was added to Section 65941.1.

In recent appeal submissions, we understand that developers have asserted that a preliminary application remains in effect so long as applicants continually re-submit an application found incomplete, within 90 days after receiving a list of incomplete items—no matter how long the overall process takes, how little change is made in the plans, or how many notices of incompleteness the Town provides—allowing iterative and unending 90-day periods, and consequently, unending vesting.

In our view, a continual reset of "the" 90-day period, all the while maintaining vesting, cannot be squared with the plain language of the statute. Further, the statute's context, as well as the legislative history and the public policy which led to the enactment of the Housing Crisis Act, all support the idea that the Legislature intended that the special vesting benefit conferred by the preliminary application should not last indefinitely. Of concern is that the developers' interpretation would allow an applicant to receive the benefits of vesting forever, without producing the housing that is the goal of these statutes. Crucially, a developer could game the system by filing a preliminary application and then submitting a development application within 180 days that omits required information. The applicant could then resubmit within 90 days after each successive incompleteness determination—all the while maintaining vesting, burdening the community with developments governed by outdated rules and fees, which are not actually built until years later.

Notably, SB 330's vesting provisions conferred an unprecedented benefit upon applicants, by providing for vested rights with a minimum amount of effort. Before the enactment of SB 330, vested rights required much more: either a development agreement, which requires approval of an ordinance subject to referendum (Sections 65864 *et seq.*); completion of a vesting tentative map (Section 66498.5); or substantial construction in reliance on an approved building permit. (*Avco Community Developers Inc. v. South Coastal Reg'l. Comm'n.* (1976) 17 Cal.3d 785.)

All of these required detailed plans and substantial time and effort. SB 330 represents a significant change in the law of vested rights, by requiring merely a streamlined application that contains limited information about a proposed project—which could differ significantly from the eventual project. The developers' interpretation would impermissibly allow developers to maintain vesting simply by resubmitting minor changes. This consequence is hard to square with the legislative history, since the stated purpose of the Act was to produce housing quickly.

Moreover, section 65941.1(e)(2) contemplates an expiration of the preliminary application, due to the failure to supply the missing information within "the" 90-day period:

> If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force and effect.

A reading that allows unending renewals, and resulting unending vesting, is difficult to reconcile with the clear expiration date set forth in the section.

The argument that Section 65941.1(e)(2) allows vesting for an unlimited period of time rests upon that section's reference to Section 65943 of the Permit Streamlining Act. That section states:

> Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. **Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application.** (Emphasis added.)

Section 65943, unlike Section 65941.1, expressly states that resubmittals begin a new 30-day review period under the Permit Streamlining Act—not the Housing Crisis Act. If the Legislature had intended the 90-day period in Section 65941.1(e)(2) to reset upon each resubmission, it could have easily included similar language, as discussed in more detail below.

The Rules of Statutory Interpretation Support the Conclusion that the 90-Day Period, and Vesting, Do Not Renew Indefinitely.

Courts look first to the plain language of the statute to interpret it. When construing a statute, a court's aim is to ascertain legislative intent. (*People v. Park* (2013) 56 Cal.4th 782, 796; *People v. Jefferson* (1999) 21 Cal.4th 86, 94. When a court construes a statute, its role "is simply to ascertain and declare what is in terms or in substance contained therein, **not to insert what is omitted**, or to omit what has been inserted . . ." (Code Civ. Proc., § 1858; *Los Angeles Unified School Dist. v. Superior Court* (2021) 64 Cal.App.5th 549, 559, *aff'd* (2023) 14 Cal.5th 758; emphasis added.)

Here, Section 65941.1 requires an applicant to submit information needed to complete the application within "the 90-day period"; otherwise, "the preliminary application"—a type of application created for the first time by the Housing Crisis Act--- "shall expire and

have no further force or effect." (Section 65941.1(e)(2).) The plain language seems clear—the Legislature identified a single 90-day period by referring to it as "the 90-day period."

In contrast, Section 65943, which predates Section 65941.1, does not address preliminary applications at all. Instead, it concerns the more formal "application for a development project" and the deadline imposed on a public agency to determine if that application is complete. Section 65943, unlike Section 65941.1, expressly states that the 30-day period for an agency determining completeness resets upon an application resubmittal: "Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application." (Gov. Code, § 65943(a).)

Section 65941.1 and 65943 are entirely different in this respect. An argument for more than a single 90-day period would read the word "the" out of Section 65941.1, and insert the language from preexisting 65943, conflicting with the rule of interpretation in Code of Civil Procedure section 1858. In other words, if the Legislature wanted the 90-day period to be capable of resetting, and the vesting capable of renewing, it could easily have said so, as it did in an analogous part of Section 65943---yet it did not.

Courts have refused to inject language from similar statutory sections into a newer statute, explaining the significance of the Legislature's ability to reuse language from those preexisting statutes, and the choice not to do so. For example, in *Vasquez v. State of California* (2008) 45 Cal.4th 243, 253, the California Supreme Court refused to impose a prelitigation demand on the availability of attorneys' fees under Code of Civil Procedure section 1021.5. As the Court reasoned: "the Legislature clearly knows how to require prelitigation demands unambiguously when that is what it wishes to do," citing a host of various notice and correction demands in various other statutory sections across the Civil Code, Code of Civil Procedure, Health & Safety Code, Corporations Code, and Government Code. (*See id.* at 252.)

In this instance as well, the Legislature was aware of preexisting Section 65943, allowing for multiple 30-day periods in which a public agency must make a completeness determination after multiple resubmittals of an incomplete application. The fact that the Legislature did not use the same language in 65941.1 is significant.

Similarly, the court in *People v. Myles* (2021) 69 Cal.App.5th 688, 697-703, construed a section of the penal code to have a broad, general definition of "new or additional evidence" in part because the Legislature "has defined or placed limits on the introduction of 'new evidence'" in other penal code sections, showing "that it knows how to limit the admissibility of such evidence when it intends to do so." Given the Legislature's lack of restriction on "new or additional evidence" in the relevant section, there was "no textual evidence of similar legislative intent" to restrict that term beyond its broad, general meaning. (*See id.* at 702.)

Courts have reached similar conclusions in an array of statutory contexts. (*See, e.g.*, *In re Ethan C.* (2012) 54 Cal.4th 610, 637-38 [explaining how neighboring sections of the Welfare & Institutions Code requiring additional, specific evidence shows "that the Legislature understands how to specify the need for particularized evidence" and that the relevant section "contains no such language"].) "When language is included in one portion of a statute, its omission from a different portion addressing a similar subject suggests that the omission was purposeful." (*Id.* at 638.)

Even if the court were to conclude that the language of Section 65941.1(e)(2) is ambiguous, other statutory canons forbid reading language into a statute that is not there. "The expression of some things in a statute necessarily means the exclusion of other things not expressed." (*People v. Vasquez* (2016) 247 Cal.App.4th 513, 519 [concluding "that resentencing was intentionally excluded from" certain subdivisions of a statute that differed from others because they "say nothing about resentencing."].) Here, Section 65943 shows a repeating 30-day obligation for a public agency to turn around a completeness determination, or face the application being deemed complete. But Section 65941.1, applying to the same application but a different party (and with different consequences), did not include any language to suggest that "the 90-day period" repeats. The inclusion of a repeating period in one section suggests the intentional exclusion of a repeating period in another section.

Courts also infer legislative intent from the Legislature's repeated amendments. Where a statute is "amended frequently after its enactment" but "none of the limiting amendments modified the language" at issue, a court should infer that the Legislature intended the new 30-day periods in Section 65943 and the single 90-day period in Section 65941.1 to operate differently. (*See In re Jose S.* (2017) 12 Cal.App.5th 1107, 1120 fn. 6.) Section 65941.1 has been amended five times in its brief history, with no changes to the language at issue.

Although courts must also read statutes together to make sense of and give effect to all provisions, there is no conflict between Sections 65941.1 and 65943 that would require reading additional language into Section 65941.1. Section 65943 addresses public agency deadlines to provide a completeness determination. Section 65941.1, however, addresses the development proponent's deadline to maintain the extraordinary benefit of vesting.

Even if the two statutes conflicted and could not be harmonized, "[a]nother principle of statutory construction. . . holds "that in the event of a conflict between two statutes, effect will be given to the more recently enacted law." (*Moreno v. Bassi* (2021) 65 Cal.App.5th 244, 256; *see also Lazar v. Hertz Corp.* (1999) 69 Cal.App.4th 1494, 1504 ["[A] more recent provision is typically more persuasive than an older one."].) Thus, Section 65941.1 (e)(2)'s newer language—providing a single 90-day period without any reference to that period repeating—should control.

The Statutory Context of Section 65941.1(e) (2), including the PSA and the HAA, Support the Conclusion that Preliminary Application Vesting Was Not Intended to Renew Indefinitely.

We also reviewed the interpretation of Section 65941.1(e)(2) in light of its statutory context as part of the Permit Streamlining Act (PSA) (Section 65940 *et seq.*) and related provisions in the Housing Accountability Act (HAA) (Section 65589.5.) The context demonstrates that the reference to Section 65943 in Section 65941.1(e)(2) was not intended to entitle preliminary applications to remain in effect for an unlimited period, but rather to define the time limit for completing the project application before the preliminary application expires.

The PSA was originally adopted in 1977 (Chapter 1200, Statutes of 1977) and has been amended numerous times since. Sections 65940 and 65943 describe the process that cities must follow when an application is made for development projects of all types, not just housing projects. This process has existed since 1977. A city must provide a detailed list of information needed for various types of applications (Sections 65940 and 65941) and notify applicants of the City's application fees. (Section 65941.5.) After receiving the application, the City *must* review the application for completeness within 30 days, and re-review the project for completeness within 30 days each time the applicant resubmits plans. (Section 65943.) Under recent amendments, cities are under strict limitations: nothing can be requested that was not on the city's application form, and nothing can be requested in a subsequent incomplete letter that was not requested in the first letter. (*Id.*)

In contrast to the strict requirements the section places upon local agencies, Section 65943 establishes no deadlines for the developer to act. An applicant can elect to resubmit plans quickly, or to delay resubmissions for months; the statute establishes no timeline for making an application complete. But the project can only be approved once the plans are complete.

The Housing Crisis Act created an entirely new process, made available for the first time five years ago when the Housing Crisis Act was enacted, that allows housing developers to "vest" their projects merely by submitting a very abbreviated application. So long as the preliminary application remains in effect, no new local laws or fees can be applied to the project, with very limited exceptions; fees may be fixed, even the project takes years to construct. (Section 65589.5(o).)

In exchange for this extraordinary benefit, however, the statute requires developers to provide plans that can be approved within a reasonable time period. The applicant must submit a project application within 180 days of the submission of the preliminary application, using the process described in the PSA. That application must include "*all of* the information required to process the development application consistent with Sections 65940, 65941, and 65941.5." (Section 65941.1(e)(1).) Then, as with all development projects, Section 65943 requires a city to determine if the project is complete, and to provide an "exhaustive list of items that were not complete" within 30 days. (Section 65943(a).)

The procedure for keeping a preliminary application alive, described in Section 65941.1(e), sets forth a completely different process from the PSA application process

that was established over 30 years ago, for all development projects. Unlike the provisions applicable to developments without preliminary applications, Section 65941.1(e)(2) sets time limits for submittal of a complete project application – placing obligations on developers that are not included in Section 65943. And, the obligations only apply if the developer first submitted a preliminary application. In spite of the availability of this new procedure, many projects are still done under the PSA only, with no preliminary application.

Section 65941.1(e)(2) references Section 65943 *only* to set the date when the 90-day limit on submitting a complete application begins: if the public agency sends a completeness letter under Section 65943 (as it is supposed to do), then the applicant must "submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information." The statute necessarily references Section 65943 to describe the letter that starts the shot clock; there would not reasonably be another way to describe it. But – unlike Section 65943, which establishes no time limits to complete a planning application – for the new preliminary application process, if the application is not completed within 90 days of receipt of the city's letter, the preliminary application expires and has "no further force or effect." While Section 65943(a) describes a re-submittal process, nothing in Section 65941.1(e)(2) describes a "resubmittal;" rather, it is the developer's obligation to make the application complete within the 90-day period, or else lose vesting.

The loss of vesting rights established by a preliminary application is a separate and distinct issue from the ability to resubmit an application under Section 65943. The loss of vesting rights does not limit an applicant's ability to resubmit plans under Section 65943. An applicant may elect to continue resubmitting the application, regardless of whether the preliminary application has expired, or not. And, there continues to be no deadline for an applicant to respond to incompleteness determinations under the PSA. The only deadline pertains to keeping the preliminary application alive—and that deadline is 90 days.

Likewise, the HAA distinguishes between the preliminary application process and the review of projects under Section 65943. For instance, various vesting provisions contained in the HAA at Section 65589.5(o) apply *only* to projects that filed preliminary applications. A letter describing any inconsistencies with local ordinances is required only after a project is "determined to be complete," which means that an applicant has submitted a complete application "pursuant to Section 65943." (Sections 65589.5(h)(10).)

Thus, read in context with related provisions. the procedure for maintaining the vesting rights conferred by the preliminary application is separate and distinct from the procedure governing regular project applications, set forth in Section 65943.

SB 330's Legislative History Supports the Reading that an Applicant Has 90 Days Within Which to Provide Missing Information, or Else Lose Vesting.

The legislative history of the Housing Crisis Act demonstrates a legislative intent to create certainty in the application process and allow project applicants to receive local agency approval with clarity about the rules to be followed, so that housing could be built more quickly. The developers' reading of Section 65941.1 (e) would allow the housing application process to last indefinitely, and reward applicants who merely want to maintain vested rights, with no intent to construct sorely needed housing. This would interfere with the Town's goal of meeting the Regional Housing Needs Allowance (RHNA) on schedule, as required by state law.

For example, the Author's Statement for the bill states:

> The bill then requires the city to give project proponents a single list of all incomplete elements of the full application and sets a new requirement that the project proponent respond with the additional information **within 90 days**. (Assembly Committee on Local Government, Committee Background Request at AP2-51; emphasis added.) (A copy of the Author's Statement is attached to this Memo as Exhibit A.)

In addition, the Summary of the Legislation appearing in the Assembly Committee on Housing and Community Development Report (Date of Hearing June 19, 2019), refers to the 90-day period as a single period, after which the preliminary application expires:

> v) If the local agency determines that the information provided is not complete, **the proponent has 90 days after receiving this determination in writing to provide the information, or their preliminary application will expire**. (Emphasis added; see Exhibit B.)

Moreover, the Assembly Committee on Local Government's Report for the July 10, 2019, hearing on SB 330 states that the bill:

> f) Requires, if the public agency determines that the application. . . is not complete, the proponent to submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. **Specifies the preliminary application shall expire if the proponent does not submit the information within 90 days**. (Emphasis added; see Exhibit C.)

The bill author's Response to the Assembly Committee on Housing and Community Development's Background Information Request explains that one of the purposes of the bill was to:

> Give some timeframe by which a developer must move from initial application to submittal of a full complete application (6 mo.**) so that**

> **developer doesn't just put in an initial application, lock rules, then go away for 10 years and come back wanting locked rules for their project.** (Emphasis added.)

The Response also stresses the importance of refraining from actions or interpretations that would delay the production of housing:

> SB 330 asks local governments to process housing permits faster, not change the rules midstream, **and hold off on actions that would decrease or delay housing. . .** (Emphasis added; see Exhibit D.)

The American Planning Association (APA) withdrew its opposition to SB 330 in part because safeguards were added to require that project applicants complete preliminary applications quickly or lose vesting. According to the APA's June 12, 2019, Memorandum of the Assembly Housing Committee, the 90-day limit was intended to establish a: "timeline that will create an obligation of the applicant to pursue a complete application in a reasonable timeframe in order to retain their vested rights" (attached as Exhibit E.) An iterative 90-day period, with no limit on the number of submissions, is not "a reasonable timeframe" for retaining vested rights.

Finally, we are aware that HCD has taken the position that the 90-day period referred to in Section 65941.1(e)(2) restarts with each subsequent resubmittal by an applicant. HCD relies in part on the trial court's decision in *Jha v. City of Los Angeles*, LASC 23STCP03499; *appeal pending*. That trial court decision does not have precedential value, and has been appealed. Further, the court did not consider all of the legislative history referred to above. Finally, we disagree with the court's conclusion that Section 65943's reference to a resubmission should be imported into Section 65941.1 (e) (2), for all of the reasons detailed above.

We respect the guidance provided by HCD yet note that HCD's interpretation of the housing statutes is not binding on a court. (*Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1192-1193; *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 243.) Further, and crucially, we are concerned that the developers' interpretation will make it more difficult for the Town to produce the housing it needs on time, which will make it harder for the town to comply with RHNA obligations and the other requirements of state law, which HCD is charged with enforcing.

We are happy to answer any questions or discuss in more detail any of the points touched on above.

Thank you.