

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF HOUSING POLICY DEVELOPMENT**

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November 20, 2025

Michael Forbes  
Director of Community Development  
City of Beverly Hills  
*Via: [mforbes@beverlyhills.org](mailto:mforbes@beverlyhills.org)*  
455 N Rexford Drive  
Beverly Hills, CA 90210

Dear Michael Forbes:

**RE: City of Beverly Hills – 8844 Burton Way – Notice of Potential Violation**

The California Department of Housing and Community Development (HCD) sent a Letter of Technical Assistance to the Beverly Hills Planning Commission ahead of its consideration of the proposed project at 8844 Burton Way (“Project”) on October 29, 2025. Despite HCD’s guidance, the Planning Commission recommended denial of the Project. This Notice of Potential Violation (NOPV) serves to remind the City of its obligations under the Housing Accountability Act (HAA) and specifically the requirements for making findings of denial ahead of the City Council hearing for the Project.

**Background**

HCD understands that the proposed Project includes 200 units, of which 22 units will be restricted to low-income households. The project site is located within the City’s R-4, Multiple Residential Zone, and has a General Plan designation of Multi-Family Residential – High Density. The preliminary application for the Project was filed pursuant to the Builder’s Remedy provisions of Government Code section 65589.5, subdivision (d)(5), as the City did not have a compliant housing element when a preliminary application was submitted on December 23, 2023. A full development application was then submitted on March 25, 2024. The original application submittal was deemed complete on January 10, 2025, with a revised version deemed complete on July 31, 2025. The revision did not change the overall unit count but did include modifications to height (expanding from 20 to 26 stories) and number of affordable units (reducing from 40 to 22 units). The reduction in affordable units is consistent with the updated affordability requirements under Assembly Bill 1893 (2024), Chapter 268 (Cal. Stat. 2024).<sup>1</sup> The Project also qualified under State Density Bonus Law (SDBL) and applied for several waivers and concessions, including reduced setbacks and parking dimensions, as well as the aforementioned increase in height.

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<sup>1</sup> Gov. Code, § 65589.5, subd. (h)(3)(C).

A previous Notice of Violation (NOV) dated December 2, 2024, was sent to the City on this project – and several others – but highlighted separate issues.<sup>2</sup> The City ultimately adhered to guidance provided in the NOV. The issues raised in HCD’s letter to the Planning Commission dated October 28, 2025, are reiterated here for the City Council’s consideration.

## Analysis

HCD understands that the Planning Commission considered making findings of denial based on inadequate dispersal of affordable units and impacts to health and safety. Ultimately, it is HCD’s understanding that the Planning Commission was able to work with the applicant to find a suitable dispersal of affordable units as a condition of approval. Other impacts to health and safety, however, remain outstanding, as evidenced by the Planning Commission’s recommendation to deny the project. Below, HCD reinforces to the City Council that dispersal of affordable units as proposed by the applicant should not be identified as a reason for denial and reminds the City that the HAA provides that a local agency may not disapprove “housing for very low, low-, or moderate-income households housing,” or condition approval in a manner that renders the project infeasible unless it makes appropriate findings, “based upon a preponderance of the evidence in the record....”<sup>3</sup> Because the Project is a builder’s remedy project, it qualifies as “housing for very low, low-, or moderate-income households.”<sup>4</sup>

### Dispersal of Affordable Units

The HAA and SDBL do not contain specific dispersal requirements. However, Health and Safety Code section 17929 provides that a project is required to disperse affordable units on more than one floor. Section 17929 also requires that a mixed-income multifamily structure provide occupants of the affordable housing units and occupants of the market-rate housing units with equal access to common entrances, areas, and amenities. While these are the minimum requirements, state law does not prohibit a jurisdiction from adopting regulations or setting forth conditions of approval that require more expansive dispersal requirements.

HCD applauds the City’s motivation to enhance equity for future residents, but dispersal requirements that are not required by state law and not found in the City’s objective

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<sup>2</sup> These issues included the inability for the City to require a General Plan Amendment and Zone Change for an application qualifying under Gov. Code, § 65589.5, subd. (d)(5), as well as the ability for an application to maintain vesting through multiple 90-day review periods as defined in Gov. Code, § 65941.1, subd. (d)(2).

<sup>3</sup> Gov. Code, § 65589.5, subd. (d).

<sup>4</sup> Gov. Code, § 65589.5, subd. (h)(11)(A). See also Gov. Code, § 65589.5, subd. (h)(11) for the definition of “housing for very low, low-, or moderate-income households.”

standards cannot serve as a basis for denial.<sup>5</sup> Instead, the City may consider working with the applicant to condition approval on improving dispersal as long as the condition does not render the project infeasible.<sup>6</sup> HCD understands that the applicant is willing to further disperse the affordable housing units, as discussed and agreed upon at the October 29, 2025, Planning Commission hearing. HCD urges the City Council to follow suit and not consider dispersal as a basis for denial.

### Impacts to Health and Safety

HCD is aware that the City also raised concerns of impacts to public health and safety for the Project at the October 29, 2025, Planning Commission hearing. However, a housing development project qualifying under the HAA that meets all objective standards<sup>7</sup> (except those lawfully modified via SDBL concessions and waivers) may only be denied if the City makes written findings, supported by a preponderance of evidence on the record, that (1) a specific, adverse impact upon the public health or safety would result and (2) mitigation of the adverse impact is not possible.<sup>8</sup> The HAA defines a “specific, adverse impact” as a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.”<sup>9</sup>

HCD understands the two main concerns related to impacts to health and safety are traffic impacts and emergency services access due to the height of the building. However, a Local Transportation Assessment (LTA) was prepared for the Project to evaluate level of service (LOS) impacts during peak hours at signalized intersections. The LTA determined that increases in intersection delays at relevant intersections are not expected to exceed the City’s operations criteria and that the Project is not expected to substantially or adversely increase delays at any of the study intersections.<sup>10</sup> In other words, there is no “significant, quantifiable, direct, and unavoidable impact” related to traffic found in the study or any submitted materials. Similarly, HCD is not aware of any evidence in the record that would suggest that emergency access to all floors of the building would be an issue. As a reminder, “the burden of proof shall be on the local legislative body” to make the findings contained in subdivision (d) of the HAA.<sup>11</sup> Without

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<sup>5</sup> Gov. Code, § 65589.5, subd. (f)(6)(A). See also Gov. Code, § 65589.5, subd. (h)(9) for the definition of “objective.”

<sup>6</sup> Gov. Code, § 65589.5, subd. (d). See also Gov. Code, § 65589.5, subd. (h)(12) for the definition of “condition approval.”

<sup>7</sup> The Project qualifies as a builder’s remedy project under the HAA and, according to the October 21, 2025, Planning Commission Report, is consistent with objective standards in the City’s General Plan and Municipal Code.

<sup>8</sup> Gov. Code, § 65589.5, subd. (d)(2).

<sup>9</sup> Id.

<sup>10</sup> Beverly Hills Planning Commission Report (October 21, 2025), available at

[https://beverlyhills.granicus.com/MetaViewer.php?view\\_id=57&clip\\_id=10544&meta\\_id=656582](https://beverlyhills.granicus.com/MetaViewer.php?view_id=57&clip_id=10544&meta_id=656582).

<sup>11</sup> Gov. Code, § 65589.5, subd. (i).

such documentation, there insufficient evidence to support the findings of denial. Furthermore, City staff already confirmed as much in the October 21, 2025, Planning Commission Report, stating that “there is no evidence in the record that would enable the City to make the necessary findings in the HAA as grounds to deny the project.”

### Project to be Considered

Government Code section 65589.5, subdivision (d)(2) describes one of the findings a local jurisdiction may make to potentially disapprove a project. Specifically, it requires a finding that the “housing development project ... **as proposed** would have a specific, adverse impact upon public health and safety....” (Emphasis added.) Government Code section 65589.5, subdivision (h)(14) defines “as proposed by the applicant” as “the plans and designs as submitted by the applicant, including, but not limited to, density, unit size, unit type, site plan, building massing, floor area ratio, amenity areas, open space, parking, and ancillary commercial uses.”<sup>12</sup> In other words, the City must consider the version of the Project whose application was deemed complete on July 31, 2025. The changes in unit count and affordability mix from any previous application submittal may not be considered as part of the deliberation and may not be used as a reason for denial.

### **Conclusion**

The City Council should be mindful of the specific requirements for making findings of denial under the HAA as it considers the Project. If the City Council is unable to make such findings, HCD urges the City Council to approve the Project at the proposed density, with the proposed concessions and waivers. The City may request further dispersal requirements but should only do so as a condition of approval and to the extent that the condition does not render the project infeasible.

Additionally, HCD reminds the City of its enforcement authority over the HAA and SDBL, among other state housing laws. Accordingly, HCD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction’s actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law.

If you have any questions regarding the content of this letter or would like additional technical assistance, please contact Bentley Regehr at [bentley.regehr@hcd.ca.gov](mailto:bentley.regehr@hcd.ca.gov).

Sincerely,



David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability

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<sup>12</sup> Gov. Code, § 65589.5, subd. (h)(14).