

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

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June 3, 2025

Craig Spencer, Director of Housing and Community Development
Monterey County Housing and Community Development Department
1441 Schilling Place
South 2nd Floor
Salinas, CA 93901

Dear Craig Spencer:

**RE: Monterey County Permit Streamlining Act Preliminary Fee – Letter of
Technical Assistance**

The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding the compliance of the County of Monterey's (County) imposed fee for preliminary applications with the Permit Streamlining Act (PSA)¹ as well as the application of the Housing Accountability Act (HAA)² to mobile home parks. Among other provisions, the PSA establishes procedures for the processing of preliminary applications, while the HAA provides limitations on the ability of a local government to deny a housing development project when it does not have a compliant housing element. The purpose of this letter is to provide technical assistance for the benefit of the County on whether the amount charged to an applicant complies with the PSA, and whether mobile home parks are eligible for certain provisions of the HAA.

Background

HCD understands that the project applicant (Applicant) submitted three preliminary applications for the same site at 711 Viejo Road on November 17, 2024. One of the applications consisted of a mobile home park with a mix of ground and trailer leases and without subdivisions, while the other two consisted of apartments in different configurations. Because the County did not have a substantially compliant housing element, the three applications invoked the so-called "Builder's Remedy" implicit in the HAA in Government Code section 65589.5, subdivision (d)(5)³ to develop the site at densities above that allowed by the County's general plan and zoning.

¹ Gov. Code, § 65920 et seq.

² Gov. Code, § 65589.5.

³ As of January 1, 2025, the "Builder's Remedy" is now found explicitly in Gov. Code, § subds. (f)(6)-(7), (h)(11).

On December 12, 2024, the County invoiced the Applicant a total of \$4,506 for three development review conferences. This fee amount represents the cost of a development review conference for a full development application as specified in the County's adopted fee schedule. After the Applicant contested this amount, the County increased the fee amount on December 16 to a Tier 7 \$22,000 deposit, the amount for an "Extraordinary Development Application," as specified in the County's adopted fee schedule. On December 17, the Applicant submitted an inquiry with HCD, after which the County revised the fee downward to \$15,000 and then eventually to \$500 per application, which the Applicant ultimately paid.

In addition to the matter of fees, the Applicant also requests HCD's technical assistance regarding the interaction between mobile home parks and the Builder's Remedy.

Preliminary Application Fee

Government Code section 65941.1 authorizes local governments to charge "payment processing fee[s]" for the submission of preliminary applications, and it conditions the benefits of preliminary applications on the payment of the fee. The County states that it charges the full application fee (i.e., the application fee associated with the anticipated full development application) when a preliminary application is submitted, with the option of refunding up to 50 percent of the fee if the full development application is ultimately not submitted. The County has expressed concern that if the full development application fee is not charged upfront, there is no guarantee that the County will be able to collect the full application fee should an applicant claim that the PSA prevents the further charging of a fee.⁴

Therefore, the relevant question is: **Can a local government charge the fee associated with a full development application when a preliminary application is submitted?**

The answer is "no." The purpose of the PSA's preliminary application system is to provide certainty to applicants by allowing them to lock in development standards when the basic contours of their projects are known. It is inappropriate for the County to charge the full development fee given the much narrower scope of review of a preliminary application. The statute provides that a preliminary application and a full development application, and their associated fees, are distinct under the PSA.⁵ Moreover, the statute's use of the word "processing" further frames the fee as being solely for recovering the costs of staff time to verify that all 17 items are present in the preliminary application.⁶

⁴ Gov. Code, § 65943, subd. (e).

⁵ Fees associated with preliminary applications are discussed in Gov. Code, § 65941.1, and fees associated with full development applications are discussed in Gov. Code, § 65940.1.

⁶ Gov. Code, § 65941.1, subd. (a).

In addition, as set out in Government Code section 66023, subdivision (a)(1)(A), fees shall not exceed “the amount reasonably necessary to cover the cost of . . . [the] service provided by the local agency.”

Finally, the County’s asserted concern is misplaced; a straightforward reading of the PSA does not support the ability of an applicant to avoid paying a full application fee by submitting a preliminary application.

Mobile Home Parks and the Builder’s Remedy

Mobile home projects may consist of residential units already in place, or they may allow applicants to bring their own trailers and rent lots from the owner. In the case of the mobile home park version of the project, the Applicant proposes a mix of ground and trailer leases.

Therefore, the relevant question is: **Can a mobile home park with ground leases as at least part of the project be eligible for the Builder’s Remedy?**

The answer is “yes.” The HAA defines a “housing development project” as a use consisting of either “residential units only” or mixed use developments in which at least two-thirds of the square footage is “designated for residential use.”⁷ The fact that some of the lots in the project will be lot-lease-only does not negate the fact that all of the lots in the mobile home park are “designated for residential use.” A mobile home park project that develops the site with lots to facilitate the installation of trailers still will contain residential uses upon leasing.

Furthermore, the Legislature’s intent in establishing the HAA was to “significantly increase the approval and construction of new housing for all economic segments of California’s communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects”⁸. Allowing ground lease mobile home parks to be eligible for HAA protection is consistent with this intent. It is implausible that the Legislature intended for statute to protect mobile home park projects where trailers are leased while not protecting mobile home park projects where some trailers are leased and some lots are leased to residents who bring their own trailers.

⁷ Gov. Code, § 65589.5, subd. (h)(2).

⁸ Gov. Code, § 65589.5, subd. (a)(2)(K).

Conclusion

As described above, full development application fees cannot be charged for preliminary applications, and mobile home parks are eligible for the Builder's Remedy. HCD remains committed to supporting the County in facilitating housing at all income levels and hopes the County finds this clarification helpful. If you have questions or need additional information, please contact David Ying at david.ying@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability