

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

651 Bannon Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



August 15, 2025

Carl Stiehl, City Planner
City of Murrieta, Development Services Department, Planning Division
1 Town Square
Murrieta, CA 92562

Dear Carl Stiehl:

RE: City of Murrieta – Housing Accountability Act Road Grade – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received a request for technical assistance regarding the City of Murrieta's (City) condition of approval for a housing development project as it relates to the Housing Accountability Act (HAA).¹ Among other provisions, the HAA limits the ability of a local government to deny or condition an affordable housing development project without making specific findings. The purpose of this letter is to provide technical assistance to the City on whether it can condition a certain road grade for off-site street improvements.

Background

HCD understands that the project applicant (Applicant) submitted an application to construct a 96-unit, 100 percent deed-restricted affordable housing development project at 41705 Hawthorn Street in June 2022, with the application deemed complete on January 11, 2023, and the project approved on February 22, 2023. Due to the absence of a submitted preliminary plan and profile for the extension of Hawthorn Street to the project site, the City conditioned the approval of the project on the Applicant providing these documents prior to applying for post-entitlement permits, with the plan submitted to the City's Engineering Department to the satisfaction of the City Engineer.²

HCD further understands that the Applicant submitted grading plans to the City as required by the condition after project approval but prior to plan check submission. The City interpreted the condition as requiring a 6-percent maximum grade, as opposed to the 9-percent grade sought by the Applicant. The difference comes from a disagreement over whether the local terrain is better classified as "rolling" (which has a 6-percent grade in the City's standard street drawings) or "mountainous" (which has a 9-

¹ Gov. Code, § 65589.5.

² Condition of Approval #53, Development Plan 2022-2601, February 22, 2023. This was further clarified to HCD in a meeting with City staff on August 13, 2025.

percent grade).³ The Applicant claims that the additional soil excavation and removal required for a 6-percent grade would render the project infeasible, citing reports from hired engineers that find an estimated cost of over \$10 million. HCD understands that no post-entitlement permits for the project have yet to be submitted.

Analysis

Government Code section 65589.5, subdivision (d) prohibits a local agency from disapproving a housing development project for very low-, low-, or moderate-income households, or condition its approval in a manner that renders the project infeasible, unless the local agency makes at least one of six written findings, “based on a preponderance of the evidence in the record....”

Specifically, subdivision (d)(2) allows local agencies to disapprove the project or impose a condition of approval if the project “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households....” Furthermore, subdivision (d)(2) defines “specific, adverse impact” to mean “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.”

Therefore, the relevant question is: **Under the Housing Accountability Act, may the City condition approval of the Applicant’s project on providing a 6-percent grade?**

The answer is “no.” The City Council did not make the required findings under the HAA to condition approval on a grade which would render the project infeasible. Specifically, the City has not demonstrated that 1) the project would have a specific, adverse impact on the public health and safety (i.e., a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions); 2) a 9-percent grade is necessary to mitigate or avoid said impact; and 3) there is no other feasible method to mitigate the impact without rendering the project unaffordable to low- and moderate-income households.

A 9-percent grade is evidently permissible in some street terrain contexts, but the roadway design requirements that set the 6-percent and 9-percent grades do not provide any guidance on which classifications apply given site conditions. Rather, they simply state the maximum percentages for each classification, leaving the final determination to the discretion of City staff who must rely on their own subjective understanding of the meaning of the words “rolling” and “mountainous,” with no *objective* definition included in City documentation.

³ City of Murrieta Standard Drawings, January 14, 2010, <https://www.murrietaca.gov/DocumentCenter/View/373/2010-Standard-Drawings-All-PDF>, PDF page 23.

Therefore, the City's actions do not satisfy the HAA's requirements and do not allow the City to condition its approval in this manner.

Conclusion

In summary, the City of Murrieta is unable to require a 6-percent grade for the proposed roadway because it has not made the requisite findings under the HAA.

HCD remains committed to supporting the City in facilitating housing at all income levels and hopes the City finds this clarification helpful. In addition, HCD has enforcement authority over the HAA and various 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.⁷

HCD requests a written response from the City by September 15, 2025, indicating how the City plans to implement the guidance provided in this letter. If you have any questions regarding this letter or require additional technical assistance, please contact David Ying at david.ying@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability