

**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 27, 2025

Leza Mikhail, Deputy Director of Planning and Development
County of Santa Clara
Department of Planning and Development
70 West Hedding Street, East Wing, 7th Floor
San Jose, CA 95110

Dear Leza Mikhail:

**RE: Santa Clara County – Gavello Glen Permit Streamlining Act 90-Day Review –
Notice of Potential Violation**

The California Department of Housing and Community Development (HCD) has been informed that Santa Clara County (County) considers a Preliminary Application to have expired due to the associated housing development project failing to achieve completeness under the Permit Streamlining Act (PSA)¹ within 90 days of the County's initial incompleteness determination. Among other provisions, the PSA governs the timing of development applications, including the ability of applicants to correct applications that have been deemed incomplete. Consistent with HCD's prior letters to local jurisdictions on the application of the PSA, HCD hereby notifies the County that its failure to reset the 90-day period after each incompleteness determination would be in violation of state housing law.

Background

HCD understands that Latala Homes (Applicant) submitted a Preliminary Application on November 19, 2024 for the property at 20202 Harry Road. The Applicant then submitted a full development application for a project known as Gavello Glen (Project) with 173 housing units on February 12, 2025, within the six-month statutory time period required by Government Code section 65941.1, subdivision (e) to maintain the vested rights conferred by the Preliminary Application. The County found the Project incomplete on March 13, 2025, stating that the Applicant "will have 90 days from the date of this letter to submit the remaining incomplete items" and that "[f]ailing to submit the remaining items within the 90 days will result in [the] Preliminary Application expiring and having no further force or effect."² The Applicant resubmitted on May 29, 2025, with the County subsequently determining the application to still be incomplete on June 26, 2025. In its incompleteness letter, the County also determined that the Preliminary Application had

¹ Gov. Code, §§ 65941.1, 65943.

² March 13, 2025 Incompleteness Letter for PLN25-026-SB330.

expired. The Applicant then appealed the incompleteness determination to the Santa Clara County Planning Commission, which is scheduled to consider the appeal on August 28, 2025.

Analysis

Under the PSA, if local jurisdiction determines that the application for a development project that is vested via a Preliminary Application is not complete pursuant to Government Code section 65943, the development proponent is required to submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information in order to maintain vested status.³ However, as has previously been stated to the Town of Los Gatos⁴ and the City of Cupertino,⁵ the 90-day deadline resets after each incompleteness determination made by the County. A project with multiple incompleteness letters and responses may have multiple 90-day periods.

Imposing a single 90-day resubmittal period makes the process more difficult for diligent applicants to benefit from the protections of the PSA's Preliminary Application process. The County's incorrect interpretation of the PSA, namely that it allows an applicant only a single 90-day resubmittal period, is inconsistent with the intent of the PSA. The County's interpretation was also expressly rejected in a Los Angeles Superior Court ruling, which concluded "that when an applicant receives an incompleteness determination pursuant to section 65943 – not just the first incompleteness determination – an applicant has 90 days to respond."⁶ The court observed:

Section 65941.1(d)(2) expressly refers to completeness pursuant to section 65943. In turn, section 65943(a) refers to "any subsequent review of the application determined to be incomplete", "any resubmittal of the application", and "a new 30-day period." The use of the words "any" and "new" in section 65943(a) indicate that multiple resubmissions of an application may be made. This statute supports [the developer's] reading that the submission and completeness evaluation for an application is an iterative process with no limit on the number of submissions.⁷

³ Gov. Code, § 65941.1, subd. (e)(2).

⁴ Notice of Potential Violation to the Town of Los Gatos, February 12, 2025, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/losgatos-hau-1398-nopv-02122025.pdf>.

⁵ Notice of Violation to the City of Cupertino, July 16, 2025, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/cupertino-hau-1585-psa-90-days-nov-071625.pdf>.

⁶ *Jha v. City of Los Angeles*, Decision on Petition for Writ of Mandate (July 24, 2024, Los Angeles Superior Court Case No. 23STCP03499), p. 24.

⁷ *Id.* at 23.

The court went on to conclude that the PSA should not be interpreted in a vacuum, but rather in its relation to the HAA, and the Legislature has mandated that the HAA must be interpreted to “afford the fullest possible weight to the interest of, and the approval and provision of, housing.”⁸ The court rejected the County’s interpretation again in the case of *Yes in My Backyard, Trauss, et al. v. City of Los Angeles*.⁹

Conclusion

Failure by the County to allow for an additional 90-day resubmittal period after each of its incompleteness determinations would be a violation of the PSA. If the Planning Commission does not uphold the Applicant’s appeal of the incompleteness determination, the County must allow the Applicant to resubmit the application by September 24, 2025. The County must also uphold its PSA obligations under Government Code section 65941.1 by honoring the Project’s vested rights.

Under Government Code section 65585, HCD must notify a local government when that local government takes actions that violate the HAA and the PSA and may notify the California Office of the Attorney General of those violations.¹⁰

The County has until September 26, 2025, to provide a written response to this letter. HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (j), including, but not limited to, referral to the California Office of the Attorney General.

If you have any questions regarding the content of this letter or would like additional technical assistance, please contact David Ying at david.ying@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

cc: Aimee Escobar, Planning Commission Chairperson
Marc Rauser, Planning Commission Vice Chairperson
Robert Levy, Jennifer Chang Hetterly, Margaret Belska, Sean O’Donoghue, and Jean Cohen, Planning Commissioners

⁸ *Id.* (quoting *Save Lafayette v. City of Lafayette* (2022) 85 Cal.App.5th 842, 855).

⁹ See *Yes in My Backyard, Trauss, et al. v. City of Los Angeles* (September 26, 2024, Case No. 24STCP00070, Decision on Petition for Mandamus: Granted), pp. 19-21.

¹⁰ Gov. Code, § 65585, subds. (i)(1), (j).