

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

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June 17, 2026

Jing Yeo
Community Development Director
City of Santa Monica
1685 Main Street, Santa Monica, CA 90401

Dear Jing Yeo:

RE: City of Santa Monica SHRA Physical Preclusion – Letter of Technical Assistance

The California Department of Housing and Community Development (HCD) received requests for technical assistance regarding how the Starter Home Revitalization Act¹ (SHRA) applies to the proposed housing development projects at 2134 Stewart Street (Stewart Street Project) and 2958 Delaware Avenue (Delaware Avenue Project). Among other provisions, the SHRA prevents local governments from imposing side and rear setbacks greater than four feet, and from applying development standards that would physically preclude projects eligible under the statute. This letter provides technical assistance to the City of Santa Monica (City) regarding implementation of the SHRA, specifically regarding the City's ability to require building massing modulation, to include unit size within the definition of density, and to require full compliance with a front setback standard.

Background

The Stewart Street Project proposes three multifamily units to be located behind an existing single-family house in an R2 zone.² The Delaware Street Project proposes four units, arranged such that two units are next to each other on each side of the lot, in an R1 zone.³ HCD understands that the applications for the Stewart Street and Delaware Street Projects were submitted on November 26, 2025 and March 10, 2026, respectively.

¹ Gov. Code §§ 65852.28, 65913.4.5, 66499.41.

² Per Santa Monica Municipal Code §9.08.020, Table 9.07.020, the R2 zone permits multiple-unit dwellings.

³ Per Santa Monica Municipal Code §9.07.020, Table 9.07.020, the R1 zone permits single-unit dwellings and duplexes, along with larger multiple-unit dwellings in limited circumstances.

In reviewing the projects, the City required that the applicants comply with building modulation standards established by the City's zoning ordinance. For the Stewart Street Project, the applicable R2 zone requires "an additional 2-foot average side setback" from the existing side setback, "provided at each story."⁴ For the Delaware Street Project, the applicable R1 zone requires that upper stories be additionally set back by "at least 1% of total parcel area" and be between 20 percent and 25 percent of total parcel width measured from the side parcel line.⁵ Both the applicant and the City seek clarification on whether the setbacks are a form of setback and impermissible beyond the four-foot limit established by the SHRA.

In the context of the Delaware Street Project, the City additionally seeks clarification on the SHRA's provision limiting standards that physically preclude projects eligible for the SHRA. Further, the City seeks clarification on whether the definition of density includes unit size and whether the City is precluded from imposing development standards that allow the proposed density (i.e., the number of units), but not the proposed unit size (i.e., floor area). For example, the Delaware Street Project includes off-street parking, not required by the City, that makes it difficult for the project to meet the City's local standard for a 30-foot front setback while retaining the proposed density and unit size(s).

Analysis

HCD provides technical assistance on the following three questions posed by the City and the projects' applicants:

Question 1: Does the SHRA prevent the City from requiring objective modulation standards in addition to the maximum four-foot setback?

The answer is "yes." Although the City's modulation requirements do not require a full recession of the entire building face from the side parcel line, they still require portions of the building to be recessed beyond the SHRA's maximum allowable four-foot setback. This is especially true for the R2 zone, where the setback must be provided at each story.

HCD has previously provided technical assistance on setbacks to the City of Riverside in the context of SB 9.⁶ The City of Riverside had adopted an ordinance which required that SB 9 projects provide an additional setback on upper floors and portions of the buildings over 16 feet in height. However, HCD instructed the City of Riverside to remove this provision and require side setbacks no greater than four feet because the statute "makes no exception above any heights or floors."⁷ The same principle applies under the SHRA, which references SB 9 to establish the four-foot setback maximum.⁸

⁴ Santa Monica Municipal Code §9.08.030.

⁵ Santa Monica Municipal Code §9.07.030, Table 9.07.030.

⁶ Gov Code, § 65852.21.

⁷ Letter of Technical Assistance to the City of Riverside, March 21, 2025, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/riverside-hau-1143-ta-sb9-03212025.pdf>, page 2.

⁸ Gov. Code, § 65852.28, subd. (b)(2)(E).

As a result, any modulation, step back, or similar design requirement that effectively pushes portions of the building beyond four feet still constitutes a setback requirement for the purposes of complying with the SHRA's four-foot limit.

Question 2: Does the SHRA prevent the City from imposing standards that would affect an eligible project's unit size?

The answer is "yes." A project that meets the requirements of the SHRA is protected from local development standards that would otherwise prevent it from being built at the proposed density. Government Code section 65852.28, subdivision (b)(2)(A) prevents local governments from physically precluding the development of a project built to the allowed densities as specified in Government Code sections 65583.2, subdivision (c)(3)(B), ("default densities,") and 66499.41, subdivision (a)(5) (minimum densities). Government Code section 65852.28, subdivision (b)(1) also prevents local governments from imposing objective standards that conflict with Government Code sections 65852.28 and 66499.41.

The application of an objective local standard that would physically preclude an eligible housing development (i.e., one that meets statutory limits regarding parcel and unit sizes, among other requirements) would conflict with these sections. The Delaware Street Project meets the default density applicable to the City of Santa Monica of 30 dwelling units per acre. Additionally, the project meets the requirements of the SHRA in Government Code section 66499.41, subdivision (a), including lot sizes of at least 600 square feet and average unit size no larger than 1,750 square feet.

In a previous letter to the City of Oakland regarding its implementation of the SHRA, HCD wrote that local governments are obligated to reduce development standards, such as a front setback, "to the extent necessary to accommodate the units at the proposed density and size."⁹ Under Government Code section 65852.28, subdivision (d), a local government may disapprove a project eligible for the section if it is able to make the finding of specific, adverse impact on public health and safety without a feasible method of mitigation or avoidance of the impact, as specified in the Housing Accountability Act.¹⁰

Question 3: Does the SHRA prevent the City from requiring a 30-foot front setback even if the applicant has not maximized the allowable building area and has voluntarily proposed amenities?

The answer is "yes." The physical preclusion language of the SHRA closely resembles that of the State Density Bonus Law (SDBL), which prevents local governments from applying "any development standard that will have the effect of physically precluding the construction of a development" that is otherwise eligible for the SDBL at the densities or with the concessions permitted by the law.¹¹

⁹ Letter of Technical Assistance to the City of Oakland, February 19, 2025, <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/oakland-hau-1147-sb-684-ta-02192025.pdf>, page 3.

¹⁰ Gov. Code, § 65589.5, subd. (d)(2).

¹¹ Gov. Code, § 65915, subd. (e)(1).

Local governments cannot prevent qualifying SDBL projects from waiving development standards on the basis that a differently designed project would not need the requested waiver(s).

Judicial precedent has affirmed this. In *Wollmer v. City of Berkeley* (2011), the First Appellate District Court of Appeal ruled that the City of Berkeley correctly waived height and setback requirements to enable amenities such as a courtyard, community plaza, and increased ceiling heights. Had the City of Berkeley denied the waiver, that would “have had ‘the effect of physically precluding the construction of a development’ meeting the criteria of the [SDBL].”¹² Similarly, the Fourth Appellate District Court of Appeal in *Bankers Hill 150 v. City of San Diego* rejected the claim that a project would not have needed relief from development standards if it did not include a courtyard, writing that “a city may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.”¹³

In the context of the SHRA, local governments are likewise unable to physically preclude a development, as proposed, that meets the criteria of the law. The Delaware Street Project proposes reducing the City’s front setback requirement to accommodate rear utility line clearance consistent with the local utility standards, while providing off-street parking and other design features. The applicant does not need to maximize the developable area of the site nor remove off-street parking in order to justify the reduction.

Conclusion

The SHRA protects qualifying projects from side setbacks greater than four feet, including building modulation requirements that are applied above a certain height and/or to a portion of the side length. The SHRA also provides relief to qualifying projects from other development standards that would physically preclude the project at its proposed size and density.

HCD remains committed to supporting the City of Santa Monica in facilitating housing at all income levels and hopes the City finds this clarification helpful. If you have questions or need additional information, please contact David Ying at david.ying@hcd.ca.gov.

Sincerely,



Brian Heaton
Section Chief, Land Use Policy

¹² *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1347.

¹³ *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.