

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

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October 7, 2025

Patrick Gallegos, City Manager
City of Seal Beach
211 Eighth Street
Seal Beach, CA 90740

Dear Patrick Gallegos:

**RE: City of Seal Beach – Priority Sewer Connection for the Lampson Project –
Letter of Technical Assistance**

On March 17, 2025, The California Department of Housing and Community Development (HCD) issued a Letter of Technical Assistance to the City of Seal Beach (City) regarding a housing development project located on 4665 Lampson Avenue (Project) in the City of Los Alamitos. On March 26, 2025, the City responded to HCD's letter, challenging HCD's position and guidance on how to implement state housing law.

The purpose of this letter is to address points made in the City's letter and notify the City that failing to provide priority for the provision of sewer service to the Project would constitute a violation of state housing law.

Background

HCD understands the following facts:

- The Project located at 4665 Lampson Avenue in the City of Los Alamitos has been fully entitled by Los Alamitos. The Project will provide 246 units of housing (55 single-family detached, 114 townhomes, and 77 affordable multifamily apartments).
- In 1971, the Project site was developed with the existing commercial structure (office building), and the City currently provides sewer service to the site.
- The Project is seeking sewer service from the City to serve the proposed development. However, the City maintains that it has no obligation to provide sewer service to the Project.

As laid out in HCD's March 17, 2025 Letter of Technical Assistance, Government Code section 65589.7 establishes an obligation on the part of the City to provide sewer service to the Project. As a public entity providing sewer service, the City has provided sewer service to the Project site for many decades and continues to serve it today. As a result, The City is a public agency that "provides" sewer services within the territory of

Los Alamitos as discussed in Government Code section 65589.7, subdivision (a). It is therefore obligated to prioritize sewer connection for developments containing affordable units, including the Project. According to Government Code section 65589.7, subdivision (a):

“Each public agency or private entity providing water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.”

If the City determines that there is not sufficient treatment or collection capacity, Government Code section 65589.7, subdivision (c), outlines an option for the provider to make “specific written findings that the denial, condition, or reduction is necessary due to the existence of one or more of the following.” The City has not made such findings.

City’s Response Letter and Analysis

The City’s March 26, 2025, response letter challenged HCD’s position that the City must approve the sewer connection to the Project or make findings of denial as required under Government Code section 65589.7. The following summarizes points made in the City’s response letter and provides responsive analysis.

1. The City claims that providing sewer service to the Project would potentially require review and approval by the Orange County Local Area Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (LAFCO Law).

In its response letter, the City cites LAFCO Law as potentially requiring review and approval by LAFCO to provide sewer service to the Project. In particular, the City cites Government Code section 56133, which requires LAFCO review prior to a jurisdiction providing “new or extended services” outside of its boundaries. The City cites this section of LAFCO Law to support its claim that “state law simply does not mandate that the City enter into an inter-jurisdictional agreement with the [Rossmoor/Los Alamitos Area Sewer District (RLAASD)] to provide service in this instance.”

However, Government Code section 56133 provides a clear exemption from LAFCO review for the Project. Specifically, the section does not apply to “an extended service that a city or district was providing on or before January 1, 2001.”¹ This exemption applies to the Project since the site has had City sewer service extended beyond the City’s jurisdictional boundaries since well before January 1, 2001.

While unpublished, a recent appellate court decision affirmed this exemption’s use in a similar scenario where extended water service existed prior to January 1, 2001, thus exempting extended services from LAFCO review. The case concerned extended service from the City of Santa Cruz to the U.C. Santa Cruz campus and provides an example of the exemption’s application. In *Regents of the University of California v. City of Santa Cruz*, (2024 WL 4863097), the court found:

¹ Gov. Code, § 56133, subd. (e)(4).

It cannot be disputed that the City was providing water service to the UC Santa Cruz campus that extended to supplying water beyond the City's jurisdictional boundaries... on or before January 1, 2001. Consequently, we determine that section 56133, subdivision (e)(4) applies to exempt the City's water service to the UC Santa Cruz campus from the section 56133, subdivision (a) requirement of LAFCO approval for new or extended service.

Because the facts in Seal Beach and Los Alamitos mirror those in the *Santa Cruz* case, the reasoning there is instructive.

2. The City claims that Government Code section 65589.7 is inapplicable because the Project is mixed-income.

In its response letter, the City claims that Government Code section 65589.7 does not “require that a public agency provide service... to a mixed-income project such as this one.” Additionally, the City states that “this state law is intended to require service providers prioritize affordable housing developments over market-rate developments.”

The statute in no way excludes mixed-income developments from its coverage. The statute applies to “proposed developments that include housing units affordable to lower income households.”² Projects can “include” lower income units even if the entire project does not consist of low-income units. The Merriam Webster dictionary defines the word “include” to mean “to take in or comprise as a *part of* a whole or group” (emphasis added). Clearly, a project need not consist only of lower income units to be eligible for Government Code section 65589.7 priority for sewer and water service.

3. The City claims Government Code section 65589.7 is inapplicable to the City of Seal Beach with regard to sewer service to the Project because the Project is located outside the City's territorial boundaries.

The City claims that Government Code section 65589.7 does not “require that a public agency provide service outside of their territorial boundaries” and that “[t]he City of Seal Beach does not have any legal obligation to provide sewer service outside of its jurisdictional boundaries.”

The statute states that “each public agency or private entity *providing* water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households” (emphasis added).³ Additionally, “a public agency or private entity *that provides water or sewer services* shall not deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed development that includes housing units affordable to lower income households unless the public agency or private entity makes specific written findings...” (emphasis added).⁴

² Gov. Code, § 65589.7, subd. (a).

³ *Ibid.*

⁴ Gov. Code, § 65589.7, subd. (c).

The City is a public agency that provides sewer service to the Project site. Thus, the City, as a sewer provider, must adhere to the provisions of Government Code section 65589.7 just as any other qualifying provider must.

In establishing the broad obligation that sewer providers prioritize qualifying housing projects, Government Code section 65589.7 contemplates and addresses the many different forms and geographic variations that water and sewer providers throughout the state take. Indeed, many cities utilize water service from adjacent cities. For example, the City of West Hollywood relies upon water service from the Los Angeles Department of Water and the City of Beverly Hills. Many other cities entirely rely upon special districts for water or sewer service, or a combination of other agencies and providers. If the obligations of Government Code section 65589.7 are coterminous with the territorial boundaries of a local government, the code section would be rendered moot in many places across California.

Finally, the intent of the Legislature in establishing section 65589.7 was to address situations such as Seal Beach's opposition to the Lampson Project. SB 1087 (Chapter 727, Statutes of 2005) amended Government Code section 65589.7 to prohibit water or sewer service providers from denying or conditioning service for proposed development that includes housing units affordable to lower income households. The SB 1087 September 6, 2005 Senate Floor Analysis states the bill was intended to strengthen the law, which "requires water and sewer providers to give priority for lower-income housing" and further to address situations where water and sewer "districts have explicitly refused to serve affordable housing."

The City's refusal to provide sewer service to the Project appears to be motivated by its opposition to the Project itself. In an October 21, 2024 letter sent to the City of Los Alamitos Planning Commission expressing concerns with the Project's Final Environmental Impact Report (FEIR), the City's Environmental Quality Control Board (EQCB) wrote: "Overall, the proposed development plan for the Lampson Park Project raises significant concerns due to its excessive density and premature nature. Numerous essential questions remain unanswered regarding its potential impact on the environment, the community, and infrastructure." The letter aligns with comments made during the October 16, 2024 EQCB meeting, where sewer service was characterized as a negotiation point for the overall project. For example, according to one member of the EQCB, "We have some good negotiating power in this and we need to use it. The sewer system, that's huge. The letter that goes over, that needs to be strongly written. I think we're all in agreement. Sounds like there's some strong agreement that this project is too dense."

The law requires the City to prioritize sewer service to the Project, not to hold sewer service hostage because the City may prefer less housing density.

Anti-Discrimination in Land Use Law (Gov. Code, § 65008)

To inform the City's consideration of the Project's request for sewer service, HCD reminds the City of the parameters set forth under Government Code section 65008, known as Anti-Discrimination in Land Use (ALU) Law.

Specifically, Government Code section 65008, subdivision (b), states that a local government shall not, in the enactment or administration of ordinances pursuant to any law, prohibit or discriminate against any residential development because of, among other things, discrimination based on protected class or the fact that the project is intended to be occupied by very low-, low-, moderate-, or middle-income persons or families.⁵

In addition, Government Code section 65008, subdivision (a), deems any action taken pursuant to Title 7 of the California Government Code null and void if it denies to any individual or group the enjoyment of residence, landownership, tenancy, or land use because of the protected characteristics of the intended occupants or the fact that the project is intended to be occupied by very low-, low-, moderate-, or middle-income persons or families.⁶

Conclusion

SB 1087 amended Government Code section 65589.7 to improve the effectiveness of the law in facilitating units affordable to low-income households, establishing procedures and obligations for water and sewer service providers to accommodate housing needs.⁷ HCD understands that, if the City were to provide sewer service to the Project, an inter-jurisdictional service agreement between the City, the Project, and the RLAASD may be necessary. The City must, however, grant a priority for the provision of service to the Project.⁸ Additionally, the City may not deny or condition the approval of the application for sewer service for the Project unless it makes specific written findings that the denial, condition, or reduction is necessary due to one of the statutorily specified reasons.⁹

HCD has enforcement authority over Housing Element Law (including Government Code section 65589.7) and ALU Law, among other state housing laws. Accordingly, HD may review local government actions to determine consistency with these laws. If HCD finds that a jurisdiction is in violation of state law, HCD may notify the California Office of the Attorney General.¹⁰

⁵ Gov. Code, § 65008, subd. (b)(1)(A)-(C).

⁶ Gov. Code, § 65008, subd. (a)(1)-(3).

⁷ For more background on SB 1087, see HCD's May 22, 2006 Memorandum, available at: https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/memo_sb1087.pdf.

⁸ Gov. Code, § 65589.7, subd. (a).

⁹ Gov. Code, § 65589.7, subd. (c).

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

HCD requests a written response from the City by November 6, 2025, indicating how the City plans to implement the guidance provided in this letter. If you have questions or requires additional technical assistance, please contact Brandon Yung at brandon.yung@hcd.ca.gov.

Sincerely,

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

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability