



City of Laguna Hills
Community Development Department

**SUPPLEMENTAL APPLICATION AND REQUESTED ANSWERS AND DOCUMENTS
DUE TO PURPORTED "BUILDER'S REMEDY" PRELIMINARY APPLICATION**

Published February 13, 2023

_____ ("APPLICANT") submitted what APPLICANT claimed (on page XX of its Preliminary Application for a housing development project submitted on the document entitled [in the footer] Housing Crisis Act of 2019 (SB 330) Preliminary Application Form (Revised April 9, 2020)) was a proposed project to be developed under the so-called "builder's remedy..." (the "PRELIMINARY APPLICATION").

The City of Laguna Hills has, in its informed and advised opinion, substantially complied with Housing Element law and other applicable law as of June 28, 2022. Accordingly, The City of Laguna Hills does not agree that the PRELIMINARY APPLICATION, or the project proposed therein (the "PROJECT"), should or must proceed as a "builder's remedy" application or project.

If APPLICANT remains of the belief that it can proceed with the PROJECT under the "builder's remedy" provisions of California law, then the City of Laguna Hills needs APPLICANT to answer the following questions and provide the following information and documents in addition to and concurrently with the other information and documents due under the checklists required by the City of Laguna Hills Community Development Department.

The City of Laguna Hills needs this information, among other reasons, to assure its compliance with Government Code section 65589.5 and other provisions of California law.

Questions on this Supplemental Application are as follows:

1. Does APPLICANT claim that the PROJECT would be "infeasible" under Government Code section 65589.5 if the PROJECT was altered from the "Proposed Uses" APPLICANT describes in section 5, and/or the "FLOOR AREA" in Section 6, and/or the "PARKING" in Section 7 in your PRELIMINARY APPLICATION?

If APPLICANT's answer is anything other than an unqualified "no," please answer the following questions and provide the identified documents. Please attach additional pages if needed to answer the questions fully; please identify what documents you provide in response to which questions/requests below.

- Q: What projections or estimates has APPLICANT made of its/your return on investment for the period following completion of the Project and commencement through completion of rental of the units?

- A:

- Please produce all such documents, identify all underlying and supporting assumptions, and produce all underlying and/or supporting documents APPLICANT relied on in making such projections.

- Q: Has APPLICANT borrowed or does it intend to borrow money from anyone or any entity or has APPLICANT taken out or does it intend to take out a loan or any similar project financing, and/or has APPLICANT undertaken or does it plan to undertake any secured or unsecured financing, in connection with the Project?

- A:

- Please produce all documents created in connection with such financing, borrowing, and the like, and include all applications you completed to facilitate such financing or lending.

- Q: Has APPLICANT sought or received equity or other non-debt investments, or sought such investments, from any persons or entities in connection with the Project?

- A:

Please produce all documents sent to or received from any such investor(s) regarding the financing of or for the PROJECT, the projected or estimated return on investment for the PROJECT, and any other financial information and other documents provided to such investors or prospective investors describing the PROJECT in its present or any previous iterations.

- Q: Has APPLICANT ever considered proposing any version of the PROJECT other than what is in the PRELIMINARY APPLICATION?

- A:

If yes, please provide all documents that relate to such other versions, including financial or economic analyses, renderings, and the like.

- Q: Has APPLICANT determined the total cost of construction of the PROJECT? If so, please answer below how much and provide all documents the City might use to audit the cost(s) you state APPLICANT will incur.

- A:

- Q: Has APPLICANT determined whether the PROJECT would have a “specific, adverse impact upon the public health” and in particular has APPLICANT determined the impact of the PROJECT on City services that promote public health, such as sewage disposal and waste water control using existing facilities, and/or fire and emergency services needed to properly respond to events at the PROJECT?

- A:

If not, please state why not in light of the APPLICANT’s claim that this is a “builder’s remedy” PROJECT.

Please provide all documents which evidence, or from which the City may determine, the increased impacts due to development of the PROJECT on sewage disposal, waste water control, fire and emergency services and the like.

- Q: Has APPLICANT determined what additional city and utility services will be required due to the change from the present use of the site of the PROJECT to the uses identified in the PRELIMINARY APPLICATION.

- A:

If not, please state why not.

Also, please provide all documents that reveal the expected increase in emergency services responses due to the change from the present use of the site of the PROJECT to the uses identified in the PRELIMINARY APPLICATION. In that regard, please provide documents that reveal compliance of the PROJECT with all applicable requirements for access to the PROJECT by fire department and emergency responders.

Also, please provide all documents that reveal the change in the amount of sewage and waste water emanating from the present use of the site to the uses set forth in the PRELIMINARY APPLICATION and in that regard identify the expected number of persons who will be residing at the PROJECT once it is fully occupied and all units are rented.

- Q: What steps has APPLICANT undertaken to ensure the PROJECT complies with state and federal law regarding disabled person access and use?
 - A:

Please provide all detailed plans reflecting the accommodations for disabled access to and in the PROJECT required under the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and other applicable federal, state, and local laws.

- Q: Has APPLICANT determined under what conditions and limitations the PROJECT would become “unaffordable to low- and moderate-income households” as set forth in Government Code section 65589.5(d)(2) or (3)?
 - A:

If APPLICANT has not so determined please explain why not. If APPLICANT has so determined, please provide all documents that set forth and underlie such a determination.

- Q: Has APPLICANT determined what outcome financially the PROJECT would have to achieve in order to be a “success...” under Government Code section 65589.5(h)(1)? If so, please provide all information you used to make that determination and provide all documents you have relied in on making that determination.
 - A:

- Q: Has APPLICANT determined what outcome the PROJECT would have to achieve in order to be a “success” taking into account “environmental ... factors” under Government Code section 65589.5(h)(1)? If so, please provide all information you used to make that determination and provide all documents you have relied in on making that determination.
 - A:

- Q: Has APPLICANT determined what outcome the PROJECT would have to achieve in order to be a “success” taking into account “social ... factors” under Government Code section 65589.5(h)(1)? If so, please provide all information you used to make that determination and provide all documents you have relied in on making that determination.
 - A:

- Q: Has APPLICANT determined what outcome the PROJECT would have to achieve in order to be a “success” taking into account “technological factors” under Government Code section 65589.5(h)(1)? If so, please provide all information you used to make that determination and provide all documents you have relied in on making that determination.
 - A:

- Q: Has APPLICANT determined what outcome the PROJECT would have to achieve in order to be a “success” taking into account “economic ... factors” under Government Code section 65589.5(h)(1)? If so, please provide all information you used to make that determination and provide all documents you have relied in on making that determination.
 - A:

2. Provide to the City all information and related documents that could in your view help it determine if any change to the PROJECT might adversely affect whether the PROJECT is “Feasible” as such is defined in Government Code 65589.5(h)(1).
3. The City of Laguna Hills believes, and is informed and advised, that its June 28, 2022 submission to HCD was substantially compliant with the requirements of Housing Element law and all other applicable law. Please state all reasons you decided to submit a PRELIMINARY APPLICATION for a PROJECT that APPLICANT knew was not in compliance with applicable zoning and/or general plan land use designation.

○ A:

4. The City of Laguna Hills believes, and is informed and advised, that its June 28, 2022 submission to HCD was substantially compliant with the requirements of Housing Element law and all other applicable law. Please state all reasons you believe that the City has not substantially complied with such so that the City may fairly evaluate whether it can exercise reasonably any of the grounds to affect change (if needed) in the PROJECT under subsections (d)(1) and (d)(5) of section 65589.5 of the Government Code.

○ A:

5. The City of Laguna Hills believes, and is informed and advised, that its June 28, 2022 submission to HCD was substantially compliant with the requirements of Housing Element law and all other applicable law. Please state all reasons you believe that the City has not “met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the” PROJECT so that the City may fairly evaluate whether it can exercise reasonably any of the grounds to affect change (if needed) in the PROJECT under subsection (d)(1) of section 65589.5 of the Government Code.

○ A:

6. Has APPLICANT identified what if any “design changes” or “lower density” conditions on the PROJECT would have a “substantial adverse effect on the viability or affordability” of the PROJECT for “very low, low-, or moderate-income households” as set forth in Government Code section 65589.5(i)?

○ A:

If not, please state why not. Also, please provide all documents you believe would assist the City of Laguna Hills in determining what events, circumstances and/or conditions might have such a “substantial adverse impact...”

7. Has APPLICANT determined what if any sustainable building products it intends to use in the construction of the PROJECT or to help provide any utility services to or for the PROJECT?

○ A:

If not please state why not. Also, please provide any and all documents APPLICANT has in its possession of any effort it has undertaken to study its possible use of sustainable products on this PROJECT or to help supply utility services for this PROJECT.

8. Has APPLICANT’s representative(s) had any conversations with any member of the City Council of the City of Laguna Hills in any way related to this PROJECT or any proposed uses of the site of the PROJECT?

○ A:

If so, please detail the date, time and content of such conversations.

Also, as to each such conversation, does APPLICANT believe that anything said by any such Council Member reveals, demonstrates, or evidences in any way “bad faith” (as that term is used in Government Code section 65589.5) by such Council Member or the City of Laguna Hills? If so, please detail the reasons for such belief.

9. Does APPLICANT have any members, shareholders, or partners other than person who signed the affidavit appended to the PRELIMINARY APPLICATION?

○ A:

Please provide all documents and information regarding any and all Members, Shareholders, or Partners of APPLICANT that would allow the City to identify individual persons that are in control of any and all such Members, Shareholders, or Partners of APPLICANT and all parents or affiliates of such entities or persons. Essentially, trace all corporate, LLC, or partnership entities of any kind or variety with any direct or indirect interest in the PROJECT to their ultimate individual owners or persons in control of such entities.