



City Attorneys Association of Los Angeles County

**DAVID VS. GOLIATH:
SB 9 LAWSUITS AND OTHER
HOUSING LAWS**

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OVERVIEW

- Overall Statutory Theme
- SB 9 Lawsuits
- Other Land Use Statutes

An aerial night photograph of a modern residential development. The buildings feature a mix of materials, including brick and light-colored panels, with some having gabled roofs. A prominent feature is a large, semi-transparent grid overlay that covers the entire scene. The text 'OVERALL STATUTORY THEME' is centered in white, bold, sans-serif font. The background shows a cityscape under a twilight sky, with mountains visible in the distance. The foreground shows a dirt area and a concrete retaining wall with integrated lighting.

OVERALL STATUTORY THEME

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HOUSING ISSUES

- Rapidly growing homelessness
- Increasing lack of affordability in urban areas/job centers
- Increasing costs of land, labor, and supplies
- Investor-driven markets
- Inflation

STATE'S VIEWS ON HINDRANCES TO HOUSING

- NIMBYism
- Over-regulation by local governments
- Lack of incentives for builders

OVERALL STATUTORY THEME

ATTEMPTS TO ADDRESS HOUSING ISSUES

- SB 330, SB 8 – land use controls; prohibitions on lowering residential density; ministerial approval of development applications
- SB 35 – failure to meet RHNA targets → ministerial approval of certain residential development projects with affordability component and no CEQA review
- SB 6, AB 2011 – streamlines housing developments in commercial zones
- SB 9, SB 10 – elimination of single family zoning and overturning of voter initiative process; ministerial approval

RESULTS

- Reduction in public health and safety and environmental protections
- Gentrification
- Failure to address underlying lack of housing and affordability
- Erosion of due process, transparency, and equal protection

An aerial night view of a city with a grid overlay. The text "SB 9 LAWSUITS" is centered in white. The background shows a dense urban landscape with illuminated buildings and streets, overlaid with a semi-transparent grid pattern.

SB 9 LAWSUITS

SB 9 – APPLICABLE LAW

- **Ministerial approval of lot splits and/or up to two housing units in a single-family zone or where single-family residences are the primary use**
- **Only objective development standards may be applied**
- **Unit of at least 800 sq. ft. must be allowed; lot splits must be at least 1,200 sq. ft.**
- **Very few exceptions apply**

SB 9 – ADVERSE IMPACTS

- **SB 9 does not allow a city to address public health or safety concerns**
- **SB 9 disrupts a city's housing element and State housing laws**
- **SB 9 excludes certain areas unevenly and unfairly**
- **SB 9 removes public engagement and lacks due process**

SB 9 – TWO LAWSUITS

General Law vs. Charter Law Cities

- General Law cities
 - Bound by the ***State's general laws***, even with respect to municipal affairs (e.g., policing, elections, employees, land use)
 - State laws will pre-empt city laws/rules based on a Statewide interest or concern
- Charter Cities
 - Bound by a city's ***charter and has supreme authority*** over municipal affairs ("home rule")
 - Charter only needs to state the city intends to exercise its full power under the CA Constitution over all municipal affairs
 - ***Exception***: where the state has stated an issue is of Statewide concern and State intends to fully occupy the field of regulation

SB 9 – TWO LAWSUITS

General Law City Lawsuit

- ***Not reasonably related*** to Statewide concern – Nowhere in the text of SB 9 is there a reference to or requirement to make the new homes or lots subject to affordability covenants
- **Two cities: *Lakewood and Rancho Palos Verdes***
- **Hearing date: July 7, 2023**

SB 9 – TWO LAWSUITS

Charter City Lawsuit – Four-pronged test under *Cal Fed. v. Los Angeles* (1991) 54 Cal.3d 1

- 1. Regulation of a municipal affair
- 2. Actual conflict between local and State law
- 3. State law addresses a matter of “statewide concern”
- 4. State law is (a) reasonably related to resolution of that concern AND (b) narrowly tailored to avoid unnecessary interference in local governance.

SB 9 – TWO LAWSUITS

Charter City Lawsuit

- ***Not reasonably related*** to Statewide concern
- ***Not narrowly tailored*** to avoid unnecessary interference into local governance
 - SB 9 does not allow a city to address public health or safety concerns
 - SB 9 disrupts a city's housing element and State housing laws
 - SB 9 excludes certain areas unevenly and unfairly
 - SB 9 removes public engagement and lacks due process
- **Four cities: *Carson, Redondo Beach, Torrance, Whittier***
- **Hearing date: April 27, 2023**



OTHER LAND USE STATUTES

OTHER LAND USE STATUTES

SB 35 – ministerial approval of housing projects with some affordability component

SB 330/SB 8 - prohibition on residential density reduction (no net loss) and streamlined application process

SB 6/AB 2011 – streamlines development of housing projects in commercial zones

- SB 6 requires payment of prevailing wages for workers on a project and requires workers to be “skilled and trained”
- SB 6 limits local discretion to condition or deny approval for projects, but does not provide a ministerial approval pathway
- AB 2011 requires payment of prevailing wages for workers on a project and provides a ministerial approval pathway
- AB 2011 projects must meet certain affordability requirements

OTHER LAND USE STATUTES

SB 6/AB 2011 – streamlines development of housing projects in commercial zones

- SB 6 requires payment of prevailing wages for workers on a project and requires workers to be “skilled and trained”
- SB 6 limits local discretion to condition or deny approval for projects, but does not provide a ministerial approval pathway
- AB 2011 requires payment of prevailing wages for workers on a project and provides a ministerial approval pathway
- AB 2011 projects must meet certain affordability requirements



WHY/HOW TO GET INVOLVED?

State will continue to erode local control over other areas of municipal affairs, not just land use

- Become a charter city
- Make comments known to legislators
- Support legislation for local control
- Support Local Governments retaining local control and power on behalf of the community

THANK YOU

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