

# Has the Supreme Court opened the door to more affordable housing?

By The Times Editorial Board

The California Supreme Court gave cities and counties a powerful tool to help address the state's affordable-housing crisis this week when it unanimously upheld a San Jose law requiring developers of large, for-sale residential projects to offer some of the units at below-market rates or pay into a city fund to build affordable housing.

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Nearly 200 cities in California have adopted so-called inclusionary zoning laws similar to San Jose's, and they've operated in recent years under a cloud of uncertainty as to what they could or could not demand of developers. The ruling, however, made clear that local governments have the authority to regulate the use of property through zoning or other land-use laws to serve the interests of the public.

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And the public has a clear interest in creating more affordable-housing and mixed-income developments, the court said. Numerous studies, reports and commissions have shown how the high cost of housing in California pushes families deeper into poverty, leaving little money for education, health expenses and savings. Those who can't handle rent increases or who lose their apartments can be left homeless. Workers are forced to move farther from their jobs; their long commutes create traffic congestion and air pollution. The high cost of housing can discourage companies from locating or expanding here.

While the court's decision is a big victory for cities struggling to create more affordable housing, it's also an incomplete victory, because the ruling only addressed housing that is for sale. A separate appellate court decision that barred inclusionary zoning for rental housing still stands. That case was brought by downtown Los Angeles developer Geoffrey H. Palmer, who wanted to build an apartment complex in a neighborhood that required an affordable-housing set-aside. He successfully sued the city, asserting that the mandate violated a state law — the 1995 Costa Hawkins Rental Housing Act — that limits rent control. The lawsuit effectively paralyzed Los Angeles, preventing policymakers from implementing its citywide inclusionary zoning policy and hamstringing its efforts to create more affordable housing.

The Legislature should revive a recent bill that would have allowed cities such as Los Angeles to require affordable housing in new for-sale and rental developments. Gov. Jerry Brown vetoed that bill in 2013, saying he wanted to wait until the Supreme Court ruled on the subject. Now it has — unequivocally. Brown and state lawmakers should ensure that cities have the full complement of tools necessary to create the kind of housing California needs for its economic and social prosperity.

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