

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Judge voids San Diego's affordable housing law

By **Lori Weisberg**
UNION-TRIBUNE STAFF WRITER

May 25, 2006

San Diego's 3-year-old affordable housing law was thrown out yesterday by a Superior Court judge, putting in jeopardy more than \$9 million in fees the city has collected from home builders.

The decision, a setback for City Attorney Michael Aguirre, is a victory for the San Diego County building industry, which sued the city not long after the City Council approved the "inclusionary housing" ordinance in 2003.

The measure, similar to laws in cities throughout California, requires developers to set aside 10 percent of the houses in their residential projects for low-or moderate-income households. Builders, however, have the option of paying a fee instead of constructing the affordable housing.

Just last month, the council agreed to settle the lawsuit by adjusting the timing of when builders have to pay the fee, a move that would have saved individual developers thousands of dollars. The agreement later collapsed when the council rejected additional guarantees sought by the San Diego County Building Industry Association.

"This is just a disaster," said Council President Scott Peters, who had voted for the initial settlement. "We were told that this settlement was unnecessary because the city attorney would prevail, but for this to happen and have the whole program thrown out is shocking.

"I'll do whatever I can to save the program. As modest as some people think it is, it's still helpful."

Mayor Jerry Sanders was similarly troubled by the ruling, saying he feared that the judge's decision could potentially "expose the taxpayers of San Diego to significant costs."

Aguirre, who personally argued the case in court on Friday, said yesterday he will take amendments to the council on Tuesday that should address the concerns of Superior Court Judge John S. Meyer.

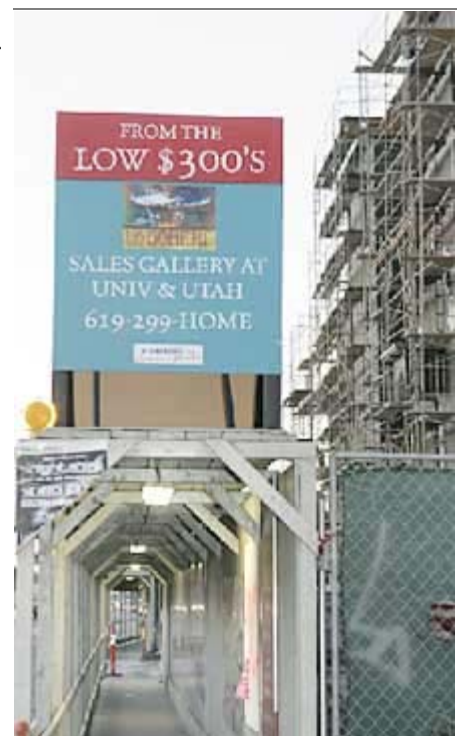
Meyer concluded that the ordinance results in an "unconstitutional taking" because it fails to include a necessary exemption clause that would allow developers to argue that the measure should not apply to them. "We've prepared the ordinance to add that one little sentence," Aguirre said. "We'll go back to the judge and show him that we've added that section he wanted, and that should take care of the problem. There won't be any returning of any money."

Building industry spokesman Paul Tryon said it was still an open question as to whether his organization would go after the city for developer fees already collected. If the city fails to persuade Meyer to reverse his ruling, millions more in housing fees could be lost.




SCOTT LINNETT / Union-Tribune

The La Boheme condo development in North Park exceeds the requirements of the inclusionary housing ordinance, with 45 of the 224 units to be affordably priced.



Find this article at:

<http://www.signonsandiego.com/news/metro/20060525-9999-1n25afford.html>

 **Click to Print**

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Check the box to include the list of links referenced in the article.