

Ashton at Dublin Station v. City of Dublin

Settlement Frequently Asked Questions

What is the lawsuit about?

The lawsuit challenges the City Council's March 6, 2018 denial of the Ashton at Dublin Station project, a proposed 220-unit apartment project within the Dublin Transit Center adjacent to the Dublin/Pleasanton BART Station. The Developer, Ashton at Dublin Station, LLC, sued the City of Dublin, the City Council, Mayor Haubert, and Councilmembers Gupta, Hernandez and Goel, making 11 separate claims that the denial was unlawful. The claims include allegations that the denial violated the Housing Accountability Act (California Government Code section 65589.5(k)), violated the Development Agreement to which the City and Developer are parties, discriminated against persons based on familial status under the federal Fair Housing Act (42 U.S.C. section 3604) and the state Fair Employment and Housing Act (California Government Code section 12955), is a regulatory taking under the United States Constitution, and violated the developer's rights under the Due Process and Equal Protection Clauses of the United States Constitution. The lawsuit seeks a court order invalidating the denial, approving the project, and awarding monetary damages and the Developer's attorneys' fees.

What would be the outcome if the City prevailed in the litigation? Would the Developer still be able to build a high-density residential project?

Even if the City is successful in defending against the Developer's claims and is not ordered to approve this specific project, the area was slated to be developed for a high-density, transit-oriented development more than 15 years ago. The City Attorney has advised the City Council that even if the City prevails in the litigation the City will very likely be required to approve a project of at least 190 units on the site (just 30 units fewer than the proposed project). Furthermore, the Developer or its successor could propose an alternative project that might be just as large as the proposed project in terms of its size and scale but might not include the high level of design reflected in the proposed project, a project over which the City would have very little discretion under the Housing Accountability Act.

What would be the outcome if the Developer prevailed in the litigation?

The Court could order the City to approve the Developer's project, as is and without any additional community benefits, and it could order the City to pay penalties, attorneys' fees and damages to the Developer.

What does the settlement provide?

The settlement agreement provides a process for the City Council to reconsider the Developer's project along with a Development Agreement. The Development Agreement would provide the Developer with certainty that it can pursue its project for a five-year period and provide the City with \$600,000 in community benefits that can be used at the future Don Biddle Community

Park, which is currently in the pre-construction phase. If the project and the Development Agreement are approved, the Developer would dismiss the lawsuit.

What are the benefits of the settlement?

While both parties feel they have strong arguments, the outcomes in litigation are always uncertain. This settlement allows the City and the Developer to avoid costly litigation over the number of units to which the Developer is entitled on the site, while providing certainty and benefits to both parties.

Wait, isn't there another lawsuit arising from the disapproval?

Yes. The California Renters Legal Advocacy Education Fund, San Francisco Bay Area Renters Federation, and Victoria Fierce (collectively CaRLA) have also filed a Housing Accountability Act lawsuit against the City, alleging the City is preventing much needed housing in the area and seeking a court order to require the City Council to approve the Project. Although CaRLA is not a party to the settlement, the settlement, by resulting in an approval of the project, is intended to resolve the CaRLA lawsuit as well.

Is the City settling because it thinks it would lose the litigation?

The outcome of litigation is always uncertain. The City is settling to minimize costs to the City's General Fund, to avoid a long and protracted dispute over the future of the project site, and to provide certainty and benefits to the community.