

Moore, Tania

From: Keith Diggs <keith@yesinmybackyard.org>
Sent: Tuesday, December 20, 2022 12:38 PM
To: CITY COUNCIL; supplementalcomm@surfcity-hb.org
Cc: ComplianceReview@hcd.ca.gov; housing@doj.ca.gov
Subject: Agenda Item #33 - Ordinance to Ban Builder's Remedy Developments
Attachments: 221220 CFHE_YL Letter to Huntington Beach re Builder's Remedy (1).pdf

Hello,

Please find attached a letter from YIMBY Law regarding [item 33](#) on [tonight's agenda](#).

Keith Diggs ♂
Legal Manager
703-409-5198



**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 12/20/2022
Agenda Item No.: #33 (22-1096)



Campaign for Fair Housing Elements
fairhousingelements.org



City Council of Huntington Beach

Via email: City.Council@surfcity-hb.org; SupplementalComm@Surfcity-hb.org;

Cc: ComplianceReview@hcd.ca.gov; housing@doj.ca.gov

December 20, 2022

Re: Agenda Item #33 - Ordinance to Ban Builder's Remedy Developments

To the City Council of Huntington Beach:

We see that the City intends to "[a]uthorize" its city attorney to prepare "an ordinance banning 'Builder's Remedy' developments from taking place in Huntington Beach."

The builder's remedy (Gov. Code § 65589.5(d)) suspends local control as applied to affordable housing projects in cities, such as Huntington Beach, that have failed to adopt a compliant housing element. As part of the Housing Accountability Act, the builder's remedy "appli[es] to charter cities." (*Id.*, subd. (g).) Courts have upheld the HAA's preemptive effect. (*California Renters Legal Advocacy & Educ. Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 846–51.)

Like a so-called sovereign citizen, the City has no basis for declaring itself exempt from State law. The proposed plan is illegal, and we warn the City not to execute it.

Govern yourselves accordingly,

Keith Diggs

Legal Manager, YIMBY Law

keith@yimbylaw.org