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Alameda land-use ruling could reshape state

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Development and open space collide on the edge of a neigh...



When an Alameda County judge this month ruled that Pleasanton must loosen its development rules to allow large amounts of new housing for all income levels, he sent a message that could ricochet around the state.

The ruling by Superior Court Judge Frank Roesch found the prosperous city of 68,000 at fault for a voter-approved cap on the number of housing units allowed within its borders. Roesch based his decision on a California law that requires cities to make land available to accommodate their share of regional housing needs - and that is a standard that most municipalities don't meet.

If the Alameda decision stands, and if other cities face legal challenges, the result could reshape the landscape of California suburbs and small cities - conceivably forcing them to reconsider height limits or increasing the density in their downtowns.

"The next few weeks, everyone is going to take a look at this and see what it might mean," said Cathy Cresswell, the deputy director for housing policy development at the state's Department of Housing and Community Development. "Some might want to take another look at how they've addressed this very important state requirement."

Cresswell was referring to the Regional Housing Needs Allocation, a formula used since 1980 but, like many state edicts, often ignored.

The idea is simple: Likely growth is determined regionally, with housing needs tied to job creation. Regional planners then break up this amount among cities and unincorporated county areas so housing is located near jobs.

Local governments then must demonstrate that they can allow such growth to occur.

The decision by Roesch faults Pleasanton for capping its number of housing units at 29,000. There are currently more than 27,000, yet the city's general plan clears the way for an additional 45,000 jobs by 2025.

To meet the state requirement, Pleasanton was supposed to make room for 5,059 units between 1999 and 2006. Instead, the city issued 2,156 housing permits - 43 percent of the desired amount.

But if the cap on units is unusually blunt, Pleasanton's resistance to housing is typical of the region.

Falling short of goal

According to a study of housing production between 1999 and 2006 conducted by the Association of Bay Area Governments, just 24 of 102 cities in the region produced more housing than requested by the state.

In terms of housing for lower-income residents - a need also addressed in the formula - the results were even more lopsided: Of the 61,000 moderate-income units that ABAG hoped for in this period, 17,697 were built in the Bay Area.

While Pleasanton attorneys have yet to comment on the ruling, plaintiffs are open about the larger message they seek to send.

"The bottom line is, it's the law" that local government must respond to state edicts, said Wynn Hausser of Public Advocates, which argued the Pleasanton suit on behalf of Urban Habitat Program, a social equity advocacy group. The suit was joined last year by state Attorney General Jerry Brown.

"Everybody has to share in the region's growth, the positives and negatives," Hausser said. "The law doesn't say everything has to be urban, but we're going beyond a point where communities can be enclaves."

Concentrate the growth

One way to accommodate growth in suburbia is to allow slightly taller apartment buildings and condominiums in the center of town, to concentrate it near BART or bus stops, and loosen zoning so that single-family neighborhoods can sprout cottages and "in-law" units.

This sort of strategy has been touted for the past decade by advocates of what is called "smart growth." And, more recently, the message has been taken up by environmentalists who see compact development as a way to get people out of their cars and to preserve open space.

"There certainly has been a demand for those sorts of ideas," said Paul Fassinger, the research director for ABAG. "The trouble has been getting (local governments) to understand that this might be a good idea for them, not just for somebody else."

If Roesch's ruling is upheld - and is applied elsewhere - those governments might have less wiggle room in the years to come.

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