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S.F. isn't the only Bay Area city the state is investigating over housing delays. Oakland is under review, too

By J.K. Dineen


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The remains of Red Star Apartments, a senior housing building in Oakland that was under construction when it was set on fire in June 2012, and was home to squatters and graffiti artists in 2014. The site of the project is now being targeted for another housing project, but has been delayed by the city council.

Leah Millis/The Chronicle



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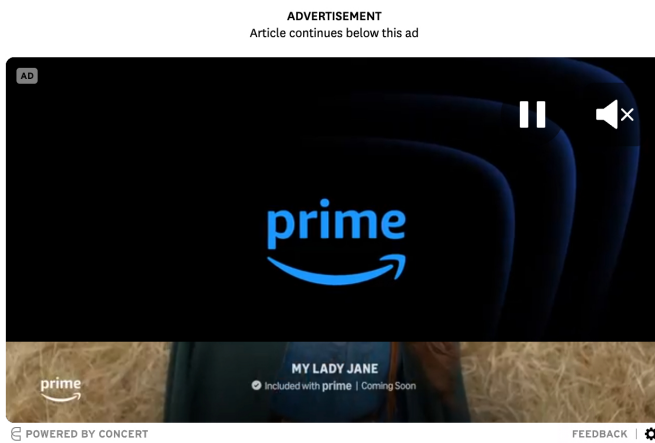
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A week after launching an investigation into a 495-unit [project](#) rejected by the San Francisco Board of Supervisors, the new enforcement arm of the California Department of Housing and Community Development has turned its attention across the Bay Bridge to West Oakland.

On Thursday, the agency said it was reviewing Oakland City Council's decision to delay approval of a 222-unit housing project on Fifth Street, across the street from the West Oakland BART.

Gustavo Velasquez, director of the California Department of Housing and Community Development, called the case "a copy cat" of the contentious project at 469 Stevenson St. in San Francisco. He said the agency would take two or three weeks to look into whether delaying the housing violates state law. After the investigation it would write a letter to the city laying out whether the state Housing Accountability Act — or other

state housing laws — were violated.



“It’s got a lot of the same elements as Stevenson Street,” said Velasquez. “Oakland and San Francisco are cities where the housing supply gap is felt the most. You would expect these elected officials to be a little more liberal in their analysis.”

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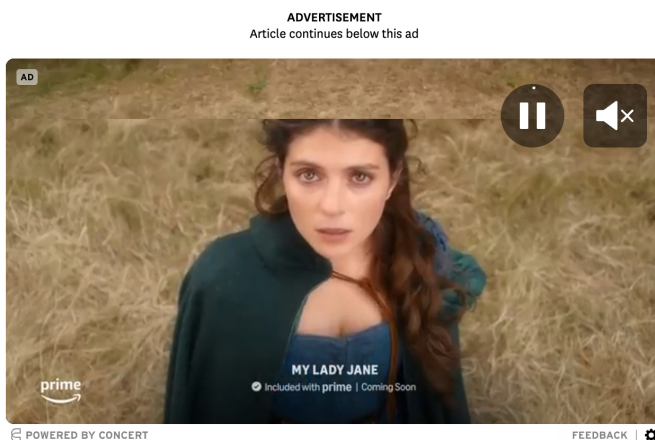
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While the state agency has long reviewed votes that violate the housing law, Gov. Gavin Newsom recently created an enforcement unit aimed at cracking down on rogue cities that block badly needed housing.

In September, the Oakland City Council voted to ask for [additional environmental review](#) on the housing project’s potential impacts on the project site and surrounding neighborhood.

The vote effectively delays a proposal to build 222 units — 16 of which are for very low-income units — in an eight-story residential building that would be located at 1396 Fifth St. Opening up the environmental report for further analysis can take as long as two years.



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The project had been unanimously approved by the Oakland Planning Commission before East Bay Residents for Responsible Development — an organization made up of

building trade unions — appealed the approvals to the city council, arguing that the project’s environmental study failed to adequately analyze toxins on the site or lay out a plan for cleaning it up.

The city council’s decision is the latest twist in a star-crossed housing development more than a decade in the making. The Michaels Organization, the project developer, originally planned to build 119 units of senior housing there. That project, dubbed Red Star Apartments, was well under way — the exterior of the building was complete — when in 2012 it was set ablaze in a suspected case of arson.



The remains of Red Star Apartments, a senior housing building in Oakland that was under construction when it was set on fire in June 2012, pictured in 2014. The site of the project is now being targeted for another housing project, but has been delayed by the city council.

Leah Millis/The Chronicle

The building was a total loss and the Michaels Organization had to start again, demolishing what remained of the charred structure and then cleaning up the site, according to Scott Cooper, who heads up west coast development for the developer.

After the fire, the property owner cleaned up the site, hauling away 10,000 cubic yards of soil and replacing it with clean fill. Between that project and the new one the developer has spent “far more than what (the site) is worth — probably double,” Cooper said.

The appellant in the case, East Bay Residents for Responsible Development, typically uses the California Environmental Quality Act to block developments that have not agreed to make the project all-union. The group has filed CEQA appeals to block projects in San Lorenzo, Uptown Oakland and elsewhere.

John Dalrymple, policy advocate for the group, said that the appeal will not kill the project but only allow enough time for a more robust review of the contamination on the property and how it should be mitigated.

“Nothing we are doing is going to stop the project from being built or the housing being available for Oakland residents,” he said. “That is a false flag being flown by the developer.”

Dalrymple added: “It is commonly known that West Oakland has been a dumping ground for contaminants. It is commonly known that the hazards have a disproportionate impact on people of color. We have members who live in that community. Without this review, they are all looking at a higher rate of cancer.”

The fact that the group uses CEQA to block large projects that have not agreed to use all union building trades suggests there are ulterior motives, said land use attorney Rob

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Selna of Selna Partners, who represented a developer the group fought in San Lorenzo.

“They appeal any project they feel is big enough to create substantial number of jobs for their members,” Selna said. “It’s CEQA abuse and it’s shameful. It doesn’t have anything to do with legitimate environmental issues.”

Cooper said that the Fifth Street project would use some trades but that building it entirely with union labor would not be economically feasible.

“A project labor agreement would basically kill this deal,” he said. The fact that the property owner didn’t walk away after the fire “speaks to the Michaels Organization’s commitment to West Oakland.”

“I’m hoping the City Council will ultimately deny the appeal and we can progress with the design and break ground in the third of fourth quarter of 2022,” Cooper said.

Victoria Fierce, director of operations for the California Renters Legal Advocacy and Education Fund — a group that sues cities that violate state housing laws — said “it’s good the state is stepping up and joining us on this. We are excited to see what their investigation turns up. We hope it’s an honest mistake on the city’s part.”

Corey Smith, deputy director of Bay Area-based Housing Action Coalition, which advocates for new housing across the Bay Area, told The Chronicle on Thursday that he and his colleagues with the nonprofit are “both relieved and not surprised” at the state’s review, saying that he believes “it’s a very good thing.”

“The decision to reject what we consider high-quality homes next to transit, replacing a surface parking lot, is an awful decision,” Smith said. “We were incredibly disappointed that council decided to say no.”

San Francisco Chronicle staff writers Sarah Ravani and Lauren Hernandez contributed to this report.

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REPORTER



J.K. Dineen covers housing and real estate development. He joined The Chronicle in 2014 covering San Francisco land use politics for the City Hall team. He has since expanded his focus to explore housing and development issues throughout Northern California. He is the author of two books: "Here Tomorrow" (Heyday, 2013) and "High Spirits" (Heyday, 2015).