

Stephanie Rojas

From: James Lloyd <james@calhdf.org>
Sent: Wednesday, June 17, 2026 3:59 PM
To: City Council; Esther Sanchez; Eric Joyce; Rick Robinson; Jimmy Figueroa; Peter Weiss
Cc: Steve Burke; City Clerk; City Manager; Planning Web; DSCstaff
Subject: public comment re item 37, SB 79 ordinance, for tonight's Council meeting
Attachments: Oceanside - SB 79 - 17 June 2026.pdf

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Dear Oceanside City Council,

The California Housing Defense Fund (CalHDF) and Californians for Homeownership submit the attached public comment regarding the proposed SB 79 ordinance, calendared as item 37 for the June 17, 2026 Council meeting.

Sincerely,

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org
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CALIFORNIANS FOR
HOMEOWNERSHIP



Jun 17, 2026

City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Re: Proposed SB 79 ordinance

To: council@oceansideca.org; esanchez@oceansideca.org; ejoyce@oceansideca.org;
rwrobinson@oceansideca.org; jfigueroa@oceansideca.org; pweiss@oceansideca.org

Cc: tsburke@oceansideca.org; cityclerk@oceansideca.org;
citymanager@oceansideca.org; planningstaff@oceansideca.org;
DSCstaff@oceansideca.org

Dear Oceanside City Council,

The California Housing Defense Fund (CalHDF) and Californians for Homeownership submit this letter to remind the City of its obligation to abide by all relevant state laws when considering the proposed SB 79 ordinance, calendared as item 37 for the June 17, 2026 Council meeting. Specifically, the City must abide by the provisions of SB 79 and other state law when determining the applicable TOD tier for the Oceanside Transit Center as well as applicable temporary and permanent exclusions from the law.

As discussed *infra*, the City's ordinance attempts to thwart the intent of SB 79 via the inappropriate use of exemptions. The City will incur a significant litigation risk should it adopt the ordinance as proposed.

The Oceanside Transit Center is a Tier 1 TOD Stop

The City must recognize that the Oceanside Transit Center is a Tier 1 transit-oriented development (TOD) stop pursuant to SB 79.

SB 79 defines a Tier 1 TOD stop as "a transit-oriented development stop within an urban transit county served by heavy rail transit or very high frequency commuter rail." (Gov. Code, § 65912.156, subd. (n).) SB 79's definition of transit-oriented development stop is provided *supra*.

SB 79 defines "very high-frequency commuter rail" as "a commuter rail service with a total of at least 72 trains per day across both directions, not including temporary service changes

2201 Broadway, PH1, Oakland, CA 94612
www.calhdf.org

of less than one month or unplanned disruptions, at any point in the past three years.” (Gov. Code, § 65912.156, subd. (r).)

On March 20, 2026, HCD issued guidance for metropolitan planning organizations (MPOs), such as SANDAG, regarding how to count the number of trains per day at TOD stops.¹ This guidance provides the following regarding how to count trains in order to determine if a station is served by “very high-frequency commuter rail” under the provisions of SB 79: A commuter rail service operating an average of at least 72 trains per weekday across all directions at any point in the past three years, not including temporary service changes of less than one month or unplanned disruptions. The average is the sum of the number of scheduled stops at a station for a commuter rail service for all weekdays, divided by five weekdays.

In assessing whether a station meets this threshold, frequency is based on the total number of trains serving the station, including trains operated by multiple commuter rail services where applicable. This approach reflects the overall level of transit access and frequency experienced by riders at a given stop.²

In other words, you must count every train that stops at a station, including trains from different commuter rail services, across all directions, and then add them all together to determine if the station meets the 72-train threshold in the law.

The Oceanside station is served by the Coaster, the Sprinter, the Metrolink, and the Pacific Surfliner, all of which are defined as commuter rail in HCD’s guidance.³ The Oceanside station is served by 26 Pacific Surfliner trains,⁴ 6 Metrolink Trains,⁵ 30 Coaster trains, and 68 Sprinter trains per weekday, with more on Fridays.⁶ This totals at least 130 trains per weekday, well above the 72-train threshold necessary to establish that the Oceanside h station is served by “very high-frequency commuter rail” as defined by SB 79.

The Oceanside station therefore qualifies as a Tier 1 TOD stop pursuant to SB 79, as it is served by very high-frequency commuter rail. The City must recognize this.

¹ <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/sb-79-mpo-advisory.pdf>

² *Id.* at page 4.

³ *Id.* at page 9.

⁴

https://www.pacificsurfliner.com/globalassets/pdfs/schedules/4399327873_pacific-surfliner-timetable_la-slo-expansion_5-4-26.pdf

⁵ <https://metrolinktrains.com/globalassets/schedules/timetables/2026/ml-timetable-current.pdf>

⁶ <https://gonctd.com/schedules/>

The City Cannot Use the Low-Resource Exemption For the Oceanside Transit Center

The City proposes to use the temporary exemption in Government Code section 65912.161, subdivision (b)(1)(B)(ii) to temporarily exempt the entire TOD zone around the Oceanside Transit Center.

However, the City based this calculation on the erroneous assumption that the Oceanside Transit Center is a Tier 2 TOD Stop. As discussed *supra*, Oceanside Transit Center is a Tier 1 TOD stop.

The zoning districts around the Oceanside Transit Center allow residential development generally between 7 and 43 units per acre. However, to use the exemption in section 65912.161, subdivision (b)(1)(B)(ii), the local zoning must allow at least 40% of the density allowed by SB 79. Given that a Tier 1 TOD station allows 100-120 units/acre (with extra density on parcels adjacent to the station), it is clear that the zoning around the Oceanside Transit Center is inadequate for this exemption.

Furthermore the City must show by a preponderance of the evidence that this area is eligible for this exemption. (Gov. Code, § 65912.160, subd. (c).) The City has not presented any evidence that this area's zoning provides the requisite density for this exemption.

The City Cannot Use the 50% Density Exemption in the Oceanside Transit Center TOD Zone

The City proposes to use the temporary exemption in Government Code section 65912.161, subdivision (b)(1)(A) to exclude a number of parcels in the Oceanside Transit Center TOD Zone. This exemption allows a local agency to temporarily exclude parcels where the current zoning allows at least 50% of the density allowed by SB 79.

However, the City based this calculation on the erroneous assumption that the Oceanside Transit Center is a Tier 2 TOD Stop. As discussed *supra*, Oceanside Transit Center is a Tier 1 TOD stop.

For example, the Downtown zoning districts around the Oceanside Transit Center allow residential development up to 43 units per acre. However, to use the exemption in section 65912.161, subdivision (b)(1)(A), the local zoning must allow at least 50% of the density allowed by SB 79. Given that a Tier 1 TOD stop allows 100-120 units/acre (with extra density on parcels adjacent to the station), it is clear that the zoning around the Oceanside Transit Center is inadequate for this exemption.

Furthermore the City must show by a preponderance of the evidence that this area is eligible for this exemption. (Gov. Code, § 65912.160, subd. (c).) The City has not presented any evidence that this area's zoning provides the requisite density for this exemption.

The City's Local Standards Cannot Override State Law

The City's staff report from the May 20, 2026 Council meeting states that "Undevelopable sites per criteria 1.d and 1.e include those within a habitat preserve, or 100 feet of an identified wetland pursuant to Vital and Sustainable Resources Element Policy 5-12 within the General Plan." The City's proposed maps from the May 20, 2026 meeting (Attachments 4, 5, and 9) then depict such areas as ineligible for SB 79.

State law preempts local law. (Cal. Const., art. XI, § 7.) This is a foundational constitutional principle, and it is no less true in the land use context than anywhere else. As a corollary to this principle, local governments "cannot choose to forgo application of land use policies imposed by the Legislature." (*Ailanto Properties, supra*, 142 Cal.App.4th at 595.) The City, however, attempts to do exactly that: it states in the May 20, 2026 Council staff report and maps, in effect, that state land use laws (i.e. SB 79) do not apply to certain areas of the City based on local ordinance and the local general plan. The City's intended purpose is unmistakably to "forgo application of land use policies imposed by the Legislature," as caselaw and the California constitution forbid. (*Ibid.*)

In any event, the City may not exclude sites from SB 79 based on General Plan Policy 5-12 or City policy towards wetlands. The City must implement SB 79 as written, and it contains no exceptions for habitat preserves, wetland buffers, or local general plan policies towards local conservation areas.

The ordinance and associated maps proposed for the June 17, 2026 Council meeting do not appear to include the exemptions for habitat preserves or wetland buffer areas. We remind the City that any potential future attempt to exempt such areas from SB 79 is unlawful.

The City Must Adhere to Statutory Requirements If Imposing Walking Path Exemptions

The City's proposed walking path exemptions incorrectly exclude numerous parcels that are within one-mile walking distance of TOD stops.

Under SB 79, local governments must allow transit-oriented housing development projects near qualifying transit stops. A local government may exempt an otherwise qualifying location from SB 79's provisions if it makes site-specific findings, supported by substantial evidence, that no walking path of less than one mile exists between the location and the stop. (Gov. Code, § 65912.160, subd. (e)(1).)

In the proposed ordinance, the City would exempt numerous parcels from permitting transit-oriented housing development projects under the walking path exemption, including many sites that would be highly appropriate for housing development. However, walking paths of less than one mile do exist between many of the cited parcels and

qualifying TOD stops, and the City's draft ordinance and associated materials do not include findings supported by substantial evidence establishing that no such walking paths exist.

The City attempts to define "walking path" in the recitations of the proposed ordinance:

WHEREAS, the City defines "walking path" for this purpose to mean: *a publicly accessible, continuous, and unobstructed path of travel with continuous paved or improved sidewalk from the closest point of the affected parcel to the pedestrian access point of the transit-oriented development stop as depicted on the SANDAG map(s), excepting therefrom any intersections required to cross a designated right-of-way;*

However, SB 79 does not permit local governments to exempt parcels based on lack of sidewalk access to transit stops. Rather, a location may only be exempted under the walking path exemption where no *walking path* exists between the location and the stop. (Gov. Code § 65912.160, subd. (e)(1).) A walking path is a route traveled on foot. Walking paths may include routes along improved or unimproved publicly accessible pathways, including sidewalks, streets, paseos, trails, pedestrian bridges, stairways, and more.

Lack of sidewalks has no legal bearing on whether a walking path exists. The California Vehicle Code expressly provides that pedestrians are permitted to enter roadways as long as they yield the right-of-way to vehicles and exercise due care for their safety. (Veh. Code, § 21954, subds. (a), (c)(1)-(2).) When the Legislature further enshrined these rights of pedestrians under Assembly Bill 2147, the Bill author made clear the intent of the law: "People who need to walk in their neighborhoods should not be penalized for decades of infrastructure neglect and auto-first street design that fails to consider the needs of users who aren't in cars."⁷

While the draft ordinance does not provide findings describing the exclusion of specific parcels, it appears that the City is exempting many otherwise qualifying parcels on the basis that the City has not served those parcels with sidewalks connecting them to nearby transit stops. The City cannot exempt areas on this basis. The City may only exempt areas where it finds there is no route by foot of less than one mile connecting certain parcels to transit stops, and supports that finding with substantial evidence.

In contrast, the City's findings only state that it has mapped the areas that qualify for the walking path exemption. This is not a finding supported by substantial evidence.

Examples of erroneously included parcels and neighborhoods include:

- The Moon Valley nurseries property west of Rancho Del Oro Station

⁷ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 2147 (2021-2022 Reg. Sess.) as amended Aug. 8, 2022.

- The parcels immediately south of El Camino Real Station (some of which abut the station)
- Parcels along Skyline Drive and Sonja Court, southeast of El Camino Real Station
- The neighborhoods southeast of Crouch Street Station, which can be accessed via Crouch Street, Downs Street, Grandview Street, etc.
- The neighborhoods northeast of Crouch Street Station, which can be accessed via Crouch Street, Hoover Street, etc.
- Parcels along S. Nevada Street, located north of Coast Highway Station

The City must amend this proposed ordinance and associated maps to eliminate the pedestrian exemption for these areas, as they are clearly within one-mile walking distance of a TOD stop.

The City's Interpretation of Rent Control is Impermissibly Broad

The City proposes to disallow SB 79 on all parcels that include “protected units” according to the definition in Government Code section 66300.5, subdivision (h). The City also proposes to include mobile home parks and any units subject to the statewide “Good Cause” eviction law. (Civ. Code, § 1947.12.) This is impermissibly broad.

Government Code section 65912.157, subdivision (h) only applies to units subject to price or rent controls via a public entity’s exercise of police powers within the last seven years.

Government Code section 66300.5, subdivision (h) includes units that do not meet this standard.

- Deed-restricted affordable units where the affordability has been provided via subsidy, not via exercise of police powers;
- Residential dwelling units that are or were rented by lower or very low income households within the past five years, where there is no rent restriction at all; and
- Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years, as the provision in SB 79 only applies a lookback of seven years.

Furthermore, Good Cause eviction is not rent control. Government Code section 1954.52: "Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true: (1) It has a certificate of occupancy issued after February 1, 1995."

As you can see, Costa-Hawkins prohibits the application of rent control to buildings with a C/O issued after February 1, 1995.

The Good Cause statute itself refers to “rent limits imposed by Section 1947.12 of the Civil Code” (Civ. Code, § 1947.12, subd. (d)(1)(B)(i)), not to “rent control.” Where different words or

phrases are used in different parts of a statute, it is presumed the Legislature intended a different meaning. See *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1117.

The laws providing for Good Cause Eviction are located in Chapter 2 of Title 5 of Part 4 of Division 3 of the Civil Code. In contrast, Rent Control is located in Chapter 2.7. They are not the same.

The Ordinance was Improperly Noticed

Pursuant to Government Code Sections 65854 et seq., the process for adopting a zoning ordinance follows a 2-step process. First the Planning Commission holds a hearing on the proposed ordinance and issues a recommendation, then the City Council holds a hearing introducing the ordinance. Each of these hearings must be properly noticed and open to the public so that “the public be afforded the opportunity to respond to clearly defined alternative objectives, policies, and actions” (Gov. Code § 65033). Consequently, the Court of Appeal has held that *notice* must be given *after* the Commission’s recommendation has been received. *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877.

As of the drafting of this letter on the day of the introduction of the Ordinance, the Commission’s recommendation has not been posted. Further, notice of this hearing was provided *before* the Commission’s May 18th hearing on the Ordinance. The Ordinance claims the Commission recommended adoption, however leaves the vote field blank and was posted prior to the Commission’s hearing. Clearly, the City’s rushed timeline has deprived the public of the “opportunity to respond to clearly defined alternative objectives, policies, and actions” in violation of state law; and staff’s prediction for what a Planning Commission would recommend cannot serve as a substitute for the Commission’s recommendation.



We appreciate the City’s effort to implement SB 79. We remind the City, however, that it must take care to follow the law in doing so. The current draft ordinance needs revision before it can be approved and implemented in accordance with state law.

Sincerely,

A blue ink signature of Matthew Gelfand, written in a cursive style.

Matthew Gelfand
Californians for
Homeownership

A blue ink signature of Dylan Casey, written in a cursive style.

Dylan Casey
CalHDF