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## **Court Invalidates Housing Cap**

By [Claudia Gutierrez](#)

The Alameda County Superior Court recently invalidated the housing cap in a voter-approved measure limiting the number of residences that could be built in the City of Pleasanton, California. The court also noted that the City's planning process, as well as its planning documents, were flawed and inadequate in multiple ways.

In 1996 the voters in the City approved Measure GG (later codified in the City's General Plan Land Use Element), which prohibited the City Council and City government from permitting construction of more than 29,000 housing units from 1996 until, as the court put it, "the end of time." In addition, the City had a "Growth Management Program" that placed annual limits on building permits for the construction of new housing units. Prior to the hearing in this case, the City modified the Growth Management Plan to allow an increase in the number of building permits, but only if the City was obligated to do so in order to meet its Regional Housing Needs Allocation (RHNA). The City also failed to complete studies regarding possible rezoning in the City to allow it to meet its RHNA obligations.

In the end, the issue was simple. Local governments are delegated the authority over land use decisions and planning within their jurisdiction, and according to the State's Housing Element Law, municipalities have the responsibility to facilitate provision of housing to meet the needs of all economic segments of the community. Accordingly, the City was required to implement programs to zone or rezone land to accommodate its RHNA. Ultimately, the number of units allowable under the City's housing cap was less than the City's RHNA obligation. The court concluded that the state law establishing the RHNA preempted local law, and therefore the housing cap was invalid. The court also held that the City must cease and desist from the enforcement, administration and/or implementation of any provisions in all of the City's planning documents that limit the number of housing units permitted in the City.

While this is only a Superior Court decision, it is worth noting because it represents one of the first judicial challenges to local growth initiatives that would otherwise frustrate the implementation of state housing production policies.

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