

The logo features the firm name 'ALSTON & BIRD' in a white serif font at the top. Below it, the words 'LAND USE MATTERS' are displayed in a large, bold, sans-serif font. 'LAND USE' is colored in a vibrant green, while 'MATTERS' is white. The background of the entire page is a wireframe cityscape with architectural blueprints and rolled-up documents in the foreground.

ALSTON & BIRD LAND USE MATTERS

A publication of Alston & Bird's Land Use Group

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Land Use Matters provides information and insights into legal and regulatory developments, primarily at the Los Angeles City and County levels, affecting land use matters, as well as new CEQA appellate decisions.

Please visit the firm's website for additional information about our [Land Use Group](#).

State of California

Assembly

State Assembly Considers Bill to Allow Inclusionary Housing Requirements for Rental Units

This month committees in the State Assembly considered AB-2502, a bill proposed to amend the Government Code to allow cities and counties to implement inclusionary housing ordinances that could apply to rental units. The bill is a direct response to the 2009 court decision in *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396. In that case, the appellate court invalidated a City of Los Angeles ordinance that required developers building rental units to include a certain percentage of affordable units or pay an in-lieu fee. The court held Los Angeles' ordinance conflicted with a landlord's authority to establish initial rental rates under the Costa-Hawkins Rental Housing Act. The proposed AB-2502 expressly addresses the *Palmer* outcome, amending Government Code section 65850 to "reaffirm the authority of local jurisdictions to enact and enforce" inclusionary housing requirements for units occupied by owners or tenants. The bill also expressly states the amendments are intended to "supersede any holding or dicta" in the *Palmer* decision to the extent that opinion conflicts with the new Government Code provision.

AB-2502 was introduced just before the U.S. Supreme Court denied certiorari to review the 2015 California Supreme Court decision in *California Building Industry Association v. City of San Jose* (California Supreme Court Case No. S212072). In that case, the Supreme Court upheld the constitutionality of San Jose's inclusionary housing ordinance that applies to for-sale housing units. A full copy of AB-2502 can be reviewed [here](#).

City of Los Angeles

City Council

Clean Up Green Up Ordinance Adopted

At its April 13, 2016, meeting, the City Council adopted the [Clean Up Green Up \(CUGU\) Ordinance](#) establishing a new Supplemental Use District (SUD) in Boyle Heights, Pacoima/Sun Valley and Wilmington. As reported in the [May 2015](#) and [August 2015](#) editions of *Land Use Matters*, the CUGU SUD will create new development standards but will not change the allowable uses or density of the

underlying zone. It will also establish a citywide conditional use for new and existing oil refineries. The City Council also adopted a second ordinance implementing building standards and requirements for air filtration and air circulation to reduce the impacts of incompatible uses on habitable spaces. The ordinance is effective on June 4, 2016.

Department of City Planning

New Park Fee Ordinance

On March 24, 2016, the City Planning Commission (CPC) recommended approval of a [New Park Fee Ordinance](#) imposing a park fee on all multi-unit residential developments. The City currently imposes park fees on subdivisions (Quimby Fee) and market-rate, multifamily residential projects that require a zone change (Finn Fee). A maximum of \$10,000 would be charged for residential subdivision projects and \$5,000 for residential non-subdivision projects. Affordable housing units are exempt from the fee. The proposed ordinance increases park and recreation land dedication radius requirements to within a two-mile distance for a neighborhood park, within five miles for a community park and within 10 miles for a regional park from the project site. The CPC also added a provision clarifying that for any non-subdivision project that would otherwise not be subject to a park fee and has paid its plan check fees for a building permit prior to the effective date of the new ordinance, the project shall not be subject to the park impact fee. The Planning and Land Use Committee will review the proposed ordinance at a date to be determined before final review by the City Council.

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This publication by Alston & Bird LLP provides a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

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