



CBIA Challenges San Jose's Inclusionary Zoning Ordinance Based on Patterson Ruling

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Earlier this year, the California Building Industry Association (CBIA) filed a lawsuit in state court challenging the City of San Jose's adoption of an inclusionary zoning ordinance. CBIA's lawsuit seeks to enforce the recent Court of Appeal decision in *BIACC v. City of Patterson (Patterson)*, which requires that prior to adopting an inclusionary ordinance, a city first demonstrate with evidence that the construction of new market-rate housing causes a need for affordable housing, and quantify the extent of the need for affordable housing caused purportedly by new home construction. Among other things, the City's ordinance requires 15 percent of all new homes in a project be affordable and of the same floor plan as other homes in the project. The City's own analysis found that this policy requires an average subsidy of \$122,000 per home. Last week, CBIA amended its complaint to include a challenge to a separate but related City policy—the requirement that projects within the City's several Redevelopment Areas (RDAs) comply with a similar inclusionary zoning requirement. CBIA argues that property throughout the City should be treated equally based on the ultimate ruling on the validity of inclusionary zoning in San Jose.

A copy of the *Patterson* ruling can be found here: [Patterson Ruling](#)

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