

MEMORANDUM



Date: June 25, 2024
To: Public
From: City Council of the City of Whittier
By: Ben Pongetti, Community Development Director
Subject: Moratorium Ordinance 10-day report, as required by Government Code 65858(d)

BACKGROUND ON URGENCY ORDINANCES

Under California Government Code Section 65858, a city may adopt an interim ordinance to temporarily prohibit certain land uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council and/or Planning Commission is considering or studying. On April 22, 2024, a superior court held that SB 9 is unlawful as applied to charter cities.

On May 28, 2024, the City Council adopted a 45-day moratorium on specified SB 9 housing projects. The City Council determined that it was appropriate to temporarily delay the continued implementation of SB 9. At the time it was unknown whether the Attorney General would appeal the ruling and if an appeal was filed whether SB 9 would ultimately be upheld.

On July 9, 2024, the City Council will consider whether to extend the ordinance beyond the initial 45-day period.

10 Day Report

Government Code subsection (d) provides:

“(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.”

This document is intended to serve as that “written report.”

Here, the City Council adopted the interim ordinance to temporarily halt the implementation of SB 9, until it can be determined whether the superior court decision would be upheld and/or whether the legislature would amend state law to legislatively overturn the superior court decision.

On June 18, 2024, the Court issued the judgment based upon that ruling. On June 21, 2024, the California Attorney General’s office filed a notice of appeal of the judgment. As such, it is possible that SB 9 will be upheld, and the city council may opt to simply terminate the moratorium and to continue to allow SB 9 projects per state law. Alternatively, the superior court decision might be upheld, and the city council may consider adopting an ordinance to permanently repeal Ordinance 3132, to thereby permanently revoke authorizations for SB 9 projects.

City staff has followed this case, and is tracking the legislative developments. Staff will continue to do so, so that the City Council may be requested to take appropriate action regarding the moratorium as soon as it is reasonably possible to do so.