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Marin City Apartment Complex Opponents File Suit to Block Bonds.

Opponents of a 74-apartment, five-story development at 825 Drake Ave. in Marin City have filed a lawsuit to block the issuance of bonds needed to finance the project.

The suit was filed on May 18 by Save Our City, an advocacy group, and the group's co-founder, Marilyn Mackel, a Marin City Community Development Corp. board member and a former court commissioner in Los Angeles County.

The suit seeks an order invalidating the Marin County Board of Supervisors' decision on March 21 to approve the issuance of the revenue bonds by the California Municipal Finance Authority.

The authority is a joint powers agency of 350 California counties, cities and special districts that assists local governments, nonprofits and businesses with the issuance of taxable and tax-exempt financing. Marin County is one of the authority's members.

Under federal law governing tax-exempt financing, a government whose territory includes the location of the project had to approve the bonds. As a result, only Marin County or the state could provide the necessary approval.

The supervisors voted 3-2 to approve issuance of the bonds, with Stephanie Moulton-Peters and Eric Lucan casting the dissenting votes. Save Our City's lawsuit alleges that the supervisors who voted in favor of issuance "cast their votes based on incorrect understanding of the nature and extent to their authority to approve or disapprove the project."

"All three of these supervisors," the suit states, "expressed their understanding that they could not lawfully vote to disapprove the proposed tax-exempt bond financing for the project on their own substantive objections to the project arising from features of the project that are detrimental, or that these supervisors considered detrimental, to the community."

The defendants named in the suit are Marin County, the county supervisors, the California Municipal Finance Authority and the developers, Pacific West Communities and Affordable Housing Land Consultants.

"We have not yet seen the lawsuit," County Counsel Brian Washington wrote in an email. "As required by SB 35, the county ministerially approved the 825 Drake Project without the Board of Supervisors being allowed to be part of the decision-making process. It will be the developer's obligation to defend any lawsuit challenging the project."

Supervisor Dennis Rodoni said also he had not seen the suit and declined to comment. Supervisors Katie Rice and Mary Sackett did not respond to a request for comment. The developers did not respond to requests for comment.

Mackel said Monday that Save Our City has more than 100 people on its mailing list and has been

meeting since October. She said the legal costs associated with the lawsuit are being covered by an anonymous donor.

“Safety issues are the primary concern we’re focusing on,” Mackel said, “although there are many, many others.”

Bettie Hodges, another Save Our City co-founder and director of the Hannah Project Partnership for Academic Achievement, said, “The streets are extremely narrow. There is limited parking, which will create congestion. There is concern among residents that emergency vehicles will have limited access.”

Because of Senate Bill 35, the project was approved without review by the Marin County Planning Commission or environmental analysis under the California Environmental Quality Act. The law, intended to streamline housing development to address California’s severe housing shortage, mandates a ministerial approval process for projects proposed in jurisdictions that have failed to create their state-mandated quota of housing.

Hodges said a high percentage of Marin City’s housing is already affordable or subsidized by the government, so if Marin City were a separate jurisdiction it would be exempt from SB 35.

One of the few requirements that developers face under SB 35 is to make a certain percentage of their residences affordable to households making below 80% of the area median income. Depending on the circumstances, the requirement can range from a maximum of 50% to a minimum of 10%.

Under SB 35, the developer of 825 Drake Ave. is not required to provide any parking, since the site is located within a half-mile of a Marin Transit bus stop. If not for SB 35, the county would have required two parking spaces per dwelling.

Mackel said another big concern of Save Our City is the effect the project will have on Village Oduduwa, a low-income seniors complex, which it will abut.

“The seniors will have no sunlight,” Mackel said.

Other safety concerns include the fact that the project will be located in a state-designated high fire hazard zone at heightened risk to wildfires in the summer, and in an area prone to flooding in the winter with just one road in and out of the community.

The controversy over the project grew more intense following the March 21 hearing on the bonds. Alexis Gevorgian, who had been the spokesperson for the project, said that 16 of the apartments would be reserved for four-person households earning $49,800 per year or less; eight for four-person households earning no more than $83,000; and 29 for four-person households earning no more than $99,600. Twenty of the apartments would be affordable to four-person households earning up to $116,200.

Hodges questions whether the developer is committed to those numbers.

“I think those ranges are aspirational,” she said.

The Marin Housing Authority is allocating vouchers to the project so 25 households will be guaranteed to pay no more than 30% of their income for rent.

During the March hearing, Kimberly Carroll, director of the Marin Housing Authority, also said the apartments will provide options for residents of Golden Gate Village who are being forced to move

because their family size has diminished and there are no appropriately sized apartments available in the neighborhood.

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By RICHARD HALSTEAD | rhalstead@marinij.com | Marin Independent Journal

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