

Malibu agrees to get housing plan in order, but still vulnerable to builder's remedy

Settlement with state creates an opening for new development

[Daria Solovieva](#)

Malibu mayor Steve Uhring and Governor Gavin Newsom (Getty)

The affluent coastal city of Malibu, known for celebrity beach homes and a challenging climate for new development, has

agreed to get its housing plans in order.

Malibu's settlement with the state will "enable the city to reach compliance with the state's Housing Element Law," which requires California cities plan for the development of new housing through 2029, the California Department of Housing and Community Development (HCD), Governor Gavin Newsom and Attorney General Rob Bonta said in [a statement](#).

But, until the state determines Malibu has "adopted a substantially compliant" housing plan, developers can still file projects under the provision of builder's remedy.

Under the deal, the city agreed to adopt a housing plan by September 23, which would allow for development of 79 housing units, including 47 affordable and low-income housing units.

While the number of units mentioned in the settlement represents just about 1 percent of Malibu's total housing units, according to U.S. Census data, experts say the move symbolizes the state is being more proactive in enforcing housing laws.

"79 units isn't going to solve the crisis, but the symbolism is tremendous," said Dave Rand, a land use attorney at Rand Paster Nelson. "The symbolism is that no jurisdiction, no

matter how wealthy, no matter how historically resistant to housing, no jurisdiction is immune from our state housing laws."

Malibu "may not deny certain low-, very low-, and moderate-income housing development projects based on the City's current, outdated general plan and zoning code," the state offices said in their statement. In other words, the city has to approve certain affordable projects, regardless of zoning.

"Our housing laws are not optional; they apply to all cities and counties in California," said Attorney General Rob Bonta in the statement. "When local jurisdictions like Malibu do their part and allow more homes to be constructed, all Californians benefit."

Malibu, an exclusive enclave of around [11,000](#) residents, is the latest jurisdiction to face the wrath of the state in cracking down on housing compliance across the state, in an effort to meet their housing goals and address the ongoing housing crisis.

Still, some housing advocates saw the settlement with Malibu as the state allowing the city to save its reputation and described it as a "bad actor" when it came to showing commitment to housing development over the years.

"If HCD and the attorney general want to let them walk back

some of the nonsense and try to save some face, I understand that," said Leora Tanjuatco Ross, a director at housing advocate and nonprofit YIMBY Action.

While Gov. Newsom and the attorney general said the city worked with the state "in good faith" to figure out a way to come into compliance, after receiving a violation notice from the state, Tanjuatco Ross rebuked that notion.

Malibu "struggling to allow less than 100 units of housing to be built has nothing to do with 'good faith,'" Tanjuatco Ross said.

While nobody expects citywide change overnight, Malibu's decision to settle is a notable shift towards being more pro-housing development, according to observers of the city's politics. Overcoming environmental constraints, transit issues and other challenges will be instrumental to enabling affordable housing in the city.

"Malibu has done literally nothing when it comes to the issue of producing housing or affordable housing," Rand said, noting he's already started bringing up the settlement with clients over the weekend.

"It's harder now for the city to turn around to an applicant with the right property and say 'we're not interested in anything here and we're going to deny a project every step

of the way."