



# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY  
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## AGENDA ITEM 3

September 15, 2022

**TO:** Commissioners/Alternates  
**FROM:** Lea U. Choum, Executive Officer  
**SUBJECT:** Update on City of Seal Beach Overrule and Consistency Status

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On August 29, 2022, per California Public Utilities Code (PUC) Section 21676, the City of Seal Beach City Council took action to overrule the Airport Land Use Commission's (ALUC) inconsistency determination on the City's Housing Element Update. The ALUC and Caltrans Division of Aeronautics (Division) both submitted comments prior to the City Council overrule action stating their disagreement with the City's intended action and findings.

However, pursuant to PUC Section 21676.5:

“(a) ... The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body,” and

“(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.”

At your Commission's March meeting, discussion related to the City's proposed overrule focused on both 1) inconsistency of the Housing Element Update and 2) the City as an inconsistent agency. It was noted that the City could either revise and resubmit its General Plan Housing Element Amendment, or complete the overrule process. Therefore, by taking action to overrule the Commission, the City has complied with PUC Section 21676 related to the Seal Beach Housing Element Update.

Regarding a City's status as an "Inconsistent Agency," staff's research is inconclusive related to the ALUC's ability to use this specific terminology. However, past practice of the ALUC is, once an Airport Environs Land Use Plan (AELUP) is created or updated, each local jurisdiction within an Airport Planning Area is requested to respond to ALUC showing evidence that its General Plan is in compliance with the appropriate AELUP. If, after the ALUC has sent this request, a local jurisdiction has not provided ALUC with evidence that all of its General Plan Elements have adequately addressed AELUP and associated PUC standards, the jurisdiction has been deemed an "Inconsistent Agency" until such time as evidence is provided.

It is proposed that the Commission continue to discuss and explore this "Inconsistent Agency" terminology with staff and legal counsel in order to determine if the terminology is appropriate.

Respectfully submitted,



Lea U. Choum  
Executive Officer