

# Prop 207 Claims

Binding Waivers of Enforcement

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# Background

## Ordinance 2020-28

- On November 17, 2020, the Flagstaff City Council adopted Ordinance 2020-28, which made various amendments to the Flagstaff Zoning Code.
- The amendments made certain changes regulating High Occupancy Housing (“HOH”), including:
  - Requiring a Conditional Use Permit for HOH
  - Restricting HOH of 4 units or more to the pedestrian shed of an activity center
  - Adding parking, bedroom/bathroom, and other HOH regulations



# Background



## Ordinance 2022-04

- On March 1, 2022, the Flagstaff City Council adopted Ordinance 2022-04, which made various amendments to the Flagstaff Zoning Code.
- The amendments made certain changes to the Residential Sustainable Building Incentive, including:
  - Requiring all-electric development
  - Requiring approval from the Sustainability Director for Waste Reduction and Management plans



# Background

## Prop 207 Claims

- During May 2022, the City received Prop 207 claims on behalf of 4 parcels of land.
- The owners claim that, as the result of the November 2020 and March 2022 code amendments (respectively), their properties lost a collective \$9.8 million dollars.



# Overview of Prop 207

- A.R.S. § 12-1134 (also known as Prop 207) provides that if “the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law.”
- The landowner must make a written demand for a specific amount of just compensation.
- The city has 90 days to pay, amend the law, or permanently waive enforcement of the new land use law on the landowner’s parcel.



# Overview of Prop 207

- If the city does not act, the landowner may file a claim for just compensation in superior court within three years of the date the land use law took effect.
- Just compensation for diminution in value is the reduction in fair market value for the property resulting from the land use law.
- Fair market value is the most likely price which the land would bring if exposed for sale in the open market by a purchaser who buys with knowledge of all the uses and purposes to which it is adapted and for which it is capable.



# Binding Waiver of Enforcement

- If approved by Council, the City will agree and declare that the HOH Zoning Code amendments will not be enforced nor applicable to the entirety, or any portion of, the 2 properties identified in Binding Waiver of Enforcement, attached to the staff summary as Exhibit A to the Resolution.
- And, if approved by Council, the Residential Sustainable Building Incentive will only apply in a modified form to the 2 properties as set forth in the Binding Waiver of Enforcement.



# Questions?



# Any questions?