

# Prop 207 Claims

Binding Waivers of Enforcement

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# Background



## Ordinance 2020-11

- On May 5, 2020, the Flagstaff City Council adopted Ordinance 2020-11, which made various amendments to the Flagstaff Zoning Code.
- The amendments made certain changes, including increasing the minimum lot width for a stacked triplex from 50 to 75 feet, and applying the new minimum to new and existing lots.



# 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



## Prop 207 Claims

- In June and July 2022, the City received Prop 207 claims on behalf of 13 parcels of land.
- The owners claim that, as the result of the 2020 code amendments, their properties lost a collective \$75 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 HOH Zoning Code amendments will not be enforced nor applicable to the entirety, or any portion of, the 11 properties identified as the HOH Properties in Binding Waiver of Enforcement, attached to the staff summary as Exhibit A to the Resolution.
- And the previous 50-foot lot width minimum standard will continue to apply to the 2 properties identified as Miscellaneous Amendment Properties in the Binding Waiver of Enforcement.



# Questions?



# Any questions?