
From: Linley Wilson <LWilson@azleg.gov>
Sent: Sunday, November 24, 2024 2:50 PM
To: Mayor David D. Ortega; City Council
Cc: Leo Biasiucci; Thompson, Jim; Carr, Brad; Yaron, Adam; Curtis, Tim
Subject: Correspondence from Majority Leader Biasiucci
Attachments: Letter to Scottsdale re. HB2297.pdf

⚠ External Email: Please use caution if opening links or attachments!

Dear Mayor Ortega & Councilmembers,

On behalf of Majority Leader Biasiucci, please see the attached letter.

Best,

Linley Wilson
General Counsel
Arizona House of Representatives
1700 West Washington
Phoenix, AZ 85007
602.926.5544





Arizona House of Representatives

November 24, 2024

Via Email

Honorable David Ortega
Mayor of Scottsdale
3939 N. Drinkwater Blvd.
Scottsdale, Arizona 85251

Vice Mayor Barry Graham
Councilwoman Tammy Caputi
Councilmember Tom Durham
Councilwoman Betty Janik
Councilwoman Kathy Littlefield
Councilwoman Solange Whitehead

Dear Mayor Ortega and Councilmembers,

I am writing in my official capacity to express my serious concerns regarding the City of Scottsdale's Ordinance No. 4651¹, Adaptive Reuse & Development Application Determination Text Amendment, which is scheduled for inclusion on the November 25th Council consent agenda.

During the most recent legislative session, I worked in collaboration with the Arizona Multihousing Association (AMA) and the League of Arizona Cities and Towns (AZ-LACT) to champion House Bill 2297², a bipartisan measure signed into law by Governor Hobbs. However, upon reviewing the City's interpretation and implementation of this legislation, I am deeply disturbed by actions that appear to circumvent the bill's clear statutory intent.

The following issues with the City's approach are particularly concerning:

- 1) Restricting Eligible Buildings to 1%:** According to the circulated text amendment and the City presentation (3-TA-2024, page 8)³, the City has proposed limiting eligible buildings to 1% of commercial, office, or mixed-use structures for

¹ See Adaptive Reuse & Development Application Determination Text Amendment 3-TA-2024
<https://eservices.scottsdaleaz.gov/cityclerk/DocumentViewer/Show/7ead73ea-c8e8-4f60-aca7-b29342d3573c>

² See Chapter 141, House Bill 2297 signed into law on April 10th, 2024
<https://www.azleg.gov/legtext/56leg/2R/laws/0141.pdf>

³ See 3-TA-2024, Page 8, State Law Requirements and City Compliance as presented to the Scottsdale Planning Commission on October 23rd, 2024
<https://eservices.scottsdaleaz.gov/cityclerk/DocumentViewer/Show/7ead73ea-c8e8-4f60-aca7-b29342d3573c>

conversion to multifamily use. This contradicts the statute, which explicitly allows for 10% of buildings to qualify under the bill's objective standards.

- 2) **Imposing Unnecessary Eligibility Criteria:** Page 11 of Resolution No. 13253⁴ requires eligible buildings to demonstrate economic or functional obsolescence for at least six continuous months. This is inconsistent with the statutory language, which specifies that buildings must be economically or functionally obsolete or have at least 50% vacancy in total leasable square footage. Furthermore, the bill does not mandate any specific time frame for qualifications. The addition of these arbitrary criteria undermines the bill's intent and unnecessarily limits eligibility.
- 3) **Overreach in Airport Vicinity Exemptions:** The statute exempts land located within the immediate vicinity of an airport, as defined in Ariz. Rev. Stat. § 28-8486, to ensure safety and compatibility with aviation operations. However, the map provided on page 6⁵ of the City's presentation goes beyond this intent, exempting areas far beyond the airport vicinity, including portions of Phoenix Sky Harbor's flight path. This overreach severely limits the number of eligible buildings for conversion. Furthermore, the City imposes additional height restrictions, even though many existing structures in Scottsdale already surpass the height and density standards outlined in the legislation.

Based on this interpretation, it appears unlikely that any new high-density development could be constructed anywhere within the City, as the entirety of Scottsdale is effectively deemed within the flight path. Yet, on November 19th, the Council approved zoning changes for the Axon corporate headquarters campus east of Hayden Road, just south of Loop 101, located near the Scottsdale Airport. This project is clearly within the vicinity of the airport. I must question why this project was allowed to proceed, while any potential development meeting the criteria of HB2297 is arbitrarily exempted. Shouldn't the same standard logically apply?

HB2297 was developed through collaboration with municipalities and was designed to benefit communities across Arizona through consistent and transparent standards. It is surprising that Scottsdale would act as an outlier by failing to comply with the statute, especially when other cities have appropriately aligned their ordinances with the law.

⁴ See Resolution No. 13253, Exhibit A, Page 11 as presented to the Scottsdale Planning Commission on October 23rd, 2024

<https://eservices.scottsdaleaz.gov/cityclerk/DocumentViewer/Show/7ead73ea-c8e8-4f60-aca7-b29342d3573c>

⁵ See 3-TA-2024, Page 6, State Law Requirements and City Compliance as presented to the Scottsdale Planning Commission on October 23rd, 2024

<https://eservices.scottsdaleaz.gov/cityclerk/DocumentViewer/Show/7ead73ea-c8e8-4f60-aca7-b29342d3573c>

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I must emphasize the seriousness of this matter. The City's actions not only contravene the law but also jeopardize the legislative intent behind HB2297, which aims to address critical housing needs statewide.

I strongly urge the City to conduct an immediate legal review of Ordinance No. 4651 to address these discrepancies and ensure alignment with HB2297. Please contact me as soon as possible to confirm your course of action and provide a timeline for necessary revisions.

Respectfully,



Leo Biasiucci

Majority Leader – Legislative District 30

cc: Jim Thompson, City Manager, City of Scottsdale
Brad Carr, Planning & Development Area Manager, City of Scottsdale
Adam Yaron, Planning & Development Area Manager, City of Scottsdale
Tim Curtis, Planning Director, City of Scottsdale