

## Litigation Summary: OSEE v. City of Orinda

<https://www.cityoforinda.org/617/OSEE-Litigation>

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### Background

On January 31, 2023, the Orinda City Council adopted **Plan Orinda** — a strategic planning effort that will shape the future of Orinda. This community-wide planning process identified Orinda's best option for meeting State housing mandates, acknowledged the risk of wildfire and identified key strategies for protecting our community. This plan is critical to the City's ability to retain local land use control and helps ensure Orinda is doing its part to help solve the housing crisis in California.

Plan Orinda includes several key components: a Housing Element update that was certified by the California Department of Housing and Community Development (HCD), a Safety Element update, the Downtown Precise Plan (DPP), and an Environmental Impact Report (EIR). The [EIR](#), required under the California Environmental Quality Act (CEQA), analyzes potential impacts of Plan Orinda and identifies possible methods to minimize those impacts.

Unfortunately, an entity known as Orindans for Safe Emergency Evacuation (OSEE) filed suit against the City under CEQA — a law that has too often been used to slow or stop housing development — shortly after Plan Orinda was approved. This prompted a lengthy and costly legal process, with several significant court rulings.

### Court Rulings

In an initial "minute order" issued by the court on **February 22, 2024**, small technical deficiencies within the City's EIR regarding wildfire evacuation analysis were identified. This order did not mandate any immediate action; instead, it called for a collaborative process between the involved parties to determine an appropriate remedy.

Following extensive deliberation, the parties reached a stipulation on **April 30, 2024**, largely agreeing on a compromise remedy to be presented to the court. The only point of disagreement concerned whether the City should be required to rescind approval of its DPP. OSEE advocated that the DPP should be rescinded, while the City maintained that it should be preserved.

The latest court ruling, issued on **August 22, 2024**, aligns with the stipulated compromise and outlines the following directives:

- The City will de-certify the EIR and refrain from further reliance on it until necessary revisions are made.
- The City will be held to specific deadlines for revising the EIR and associated documents, specifically addressing the identified deficiencies related to wildfire evacuation analysis.

- The City will set aside its approval of the Downtown Precise Plan until completion of the EIR revisions, at which time the DPP can be re-adopted relying on the revised EIR.
- Throughout the EIR revision process, the City's certified Housing Element and the Safety Element will remain in place. Upon completion of the revisions, the City will assess the need for potential revisions to the Housing Element and other related documents.

Throughout the Plan Orinda process, the City has been intentional and strategic in meeting State mandates for housing — focusing on serving our community and advancing quality of life. The recent Court ruling is a testament to that, ultimately identifying only technical fixes to the environmental impact report.

### **Resources**

Relevant documents from this case, including briefs and petitions, can be [viewed online](#). The City has also compiled a list of [Frequently Asked Questions](#) regarding Plan Orinda to provide helpful insights into the initiative.

[Read the City's August 27, 2024 press release here.](#)

### **Community Impacts**

Unfortunately, this lawsuit has harmed Orinda and its community in numerous ways. The City has poured time and resources into defending itself from the accusations contained within this lawsuit, leading to significant costs for consultants and attorneys. Over \$700,000 in taxpayer funds will have been expended for this unfortunate lawsuit — a lawsuit that will ultimately result in technical changes to the EIR in the name of CEQA compliance, but will likely not alter or constructively address the challenges facing our community. At the end of the day, the City still must comply with State housing mandates and will need to upzone the available sites to provide additional housing opportunities in Orinda.

The lawsuit has also wasted time and staff resources that could have been better spent on improving evacuation plans as described in the Safety Element and on implementing the Housing Element with robust community input. Because of the lawsuit, important initiatives have been put on hold and opportunities to garner community feedback have been lost. The City will need to rush to meet the State's 2026 deadline for rezones in order to avoid negative consequences for the community.

### **Next Steps**

The City will continue to serve and protect residents as we work towards final resolution. Additional updates will be added to this webpage once available.