A big court ruling in California land-use law happened last month – and it has really large implications for the state's efforts to address California's housing crisis.

The lawsuit is a challenge by a pro-housing advocacy group (California Renters Legal Advocacy and Education Fund (CARLA)) to a decision by the City of San Mateo to reject a multi-family housing project. CARLA relied on the state's Housing Accountability Act (HAA), which limits the ability of a local government to reject housing projects that are consistent with the local government's zoning rules. The trial court ruled for the City holding that there was no violation of the HAA, and to the extent there was, the HAA violated the state constitution by interfering in a matter of local concern – land-use law. CARLA appealed to the Court of Appeal, which reversed the trial court's decision and sent the project back to the city to consider consistent with the HAA.

The court's opinion does a wonderful job of laying out how the HAA works and why this project was covered by the HAA, but that isn't my focus here. Instead, I want to discuss the question of whether the state can even constrain local government regulation of land-use in California. This is an important question because the state legislature has enacted a series of laws over the past several years seeking to force local governments to approve more housing. That push has in turn provoked a backlash, with cities suing the state over whether it has the constitutional authority to constrain local regulation of land-use. The court concluded that the state does have the power to constrain local regulation of land-use, providing a strong (though not conclusive) answer to the question of state power here.

The key legal issue involves state constitutional provisions that provide that "charter cities" have the power to be independent of state legislative matters with respect to "municipal affairs." About one in six California cities is a "charter city," and the category includes the biggest ones like San Francisco, Los Angeles, San Diego, San Jose, and Sacramento, as well as San Mateo. Municipal affairs is a concept that, as developed by the California courts, excludes matters of "statewide concern."

In the City of San Mateo case, all sides before the court agreed that housing production and costs are matters of statewide concern, but the city argued that it was inappropriate for the state to focus on the role of local land-use regulation in increasing housing production, because the state hadn't demonstrated that local land-use regulation causes California's housing shortage. The court correctly rejected the city's argument on this point, noting that it wasn't the court's role to

second-guess the legislature's conclusions about what is contributing to a statewide problem.

The court's conclusions would be correct, however, even setting aside the matter of deferring to the legislature's conclusions here. Local governments are the gatekeeper for housing in California (and most of the United States). They determine what gets built and where and how. It's rather silly to argue that the legislature can't address housing production by addressing the prime entity that regulates housing production.

Moreover, as discussed in a forthcoming article, local governments have strong incentives to avoid approving enough housing to meet regional or state-wide housing needs. The negative impacts of housing development projects are primarily local in nature – noise and dirt from construction; traffic and increased impacts on schools and other public services; changes to the visual landscape. But the benefits of housing, in the form of reduced housing costs, will apply at the regional and statewide level, far beyond the borders of most local governments. As a result, local governments that are responsive to their voters will naturally weigh the negative impacts of a given project more than the positive benefits of that project, and so will be less likely to approve housing. That theoretical framework is supported by a host of evidence from political science, economics, and planning – and it provides a robust grounding for state intervention to ensure local governments do produce more housing.

This court opinion is not necessarily the last word on the topic. The California Supreme Court might take review in this case, or another case, and come to a different conclusion. And of course, there is always the possibility that there might be efforts to change the state constitution to prevent state control of local land-use regulation. Both outcomes would be wrong as a matter of theory and of policy.