

## SAVE THE 30' HEIGHT LIMIT; FORGET REWRITING THE CODE

Some history of Prop D is needed to understand the real motivation to rewrite Prop D, the 30-foot building height limit. About 1970, shortly after the Citywide ballot measure was passed and encoded in the SD Municipal Code, the Development Services Department published the initial Technical Bulletin that purported to show how to measure the 30' limit. The document pictured a simple building with an arrow from the top of the roof to the floor and labeled it 30'. So some developers started bringing in fill dirt to build up the grade on the lot and then place a 30' foot building on this raised or finished grade. (Some developers still do this today) The City is responsible for enforcing the people's vote. The City, having already encoded Prop D, realized there had to be additional code in order to clarify and enforce the people's vote. The City added code in MC Section 113.0270 (a)(1) that states building height must be measured from "...the existing grade or the finished grade, whichever is lower". The City's attorney stated in a MEMORANDUM OF LAW that the City had a right to add code to "supplement" Prop D but not to "augment" it or change it.

Fast-forward approximately 40 years to August 2013. Development Services put out a second infamous Technical Bulletin, BLGD-5-4 to "explain" Prop D again. This time the Technical Bulletin completely contradicted existing MC Code Section 113.0270 (a)(1). The statement in the MC that required measuring from the existing grade or the finished grade, whichever is lower, was eliminated along with other measurement procedures that have existed for over 40 years. These Technical Bulletins are distributed to developers. Some developers use Technical Bulletin, BLGD-5-4 as a get-out-of jail free card. They base their proposed illegal structures on the Technical Bulletin instead of on the Municipal Code.

Any confusion that exists is not in the code. As the Peninsula Planning Group stated, "The language in San Diego Municipal Code Section 113.0207 (a)(1) is explicit and unambiguous". The confusion comes from using documents outside the Municipal Code as if they were the Municipal Code. We do not need a rewrite of the code. We need planning groups from the Planning Commission down to the DPR committee to understand and enforce the Municipal Code. David Little