



CITY MANAGER'S OFFICE

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LEGISLATIVE REVIEW COMMITTEE STAFF REPORT

Meeting: June 25, 2019

Subject

Consider adopting a position on SB 592 (Weiner) – Housing Accountability Act

Recommended Action

Adopt a position opposing Senate Bill 592 and authorize the Mayor to send a letter of opposition to the State Legislature

Summary

SB 592 makes modifications to the Housing Accountability Act, which was signed into law in 1982 with the intent of increasing the approval and construction of new housing for all economic segments of California's communities by limiting the ability of local governments to deny, reduce the density of, or render infeasible housing development projects.

Since becoming law in 1982, there have been several amendments to the Housing Accountability Act, including most recently in 2017 when the Governor signed three measures impact the Act. Those three measures modified the definition of "objective standards" under the Act, increasing the standard for a local government rejecting a development under the Act, increasing the ability to collect attorney's fees under the Act, clarified that jurisdictions can only apply standards in effect at the time an application is submitted, and increased eligibility for mixed-use projects.

SB 592 amends the Housing Accountability Act in the following ways:

- Local Review Process – The Act would apply to all ministerial, by-right, or discretionary approvals
 - Requires 30-day completeness review – detailed rationale/description of incomplete items
 - Requires local agency to determine whether a housing project is inconsistent, not in compliance, or not in conformity with applicable law
 - Requires the same completeness review and deadline for each subsequent submittal.

- Discretionary Review – The measure limits cities’ ability to add conditions of approval or deny a project based on discretionary standards that are not clearly objective.
 - Conditions requiring a reduction in the number of units, number of bedrooms, or other “normal residential features” or any other factor that results in the impairment of the housing development’s project “economic viability” will be viewed as a violation.
 - Further, policies, guidelines and goals are not going to be applicable – objective standards must be applied.
- Expanded Definition of Housing – For the purpose of the Act, adds new single-family homes, ADUs, and room additions to the definition of a “housing development project”, which also includes mixed-use development with a residential component, and transitional or supportive housing.
- Compensatory Damages – Would authorize a plaintiff who is the project applicant to seek compensatory damages for a violation of the Act.

Status

SB 592 was gutted and amended on June 13th and the previous actions taken are not relevant to the current contents of the bill. The measure has been referred to the Assembly Housing and Community Development Committee and the Assembly Local Government Committee. The measure is scheduled to be heard in the Assembly Housing and Community Development Committee on July 3rd.

Support

While there is not yet any official support for SB 592, historically supporters of legislation to amend the Housing Accountability Act have argued that the Act requires strengthening to ensure that local agencies cannot disprove housing projects without clear and convincing evidence to prove that the project would adversely impact public health or safety. This measure would further refine the local review process that must be undertaken for a proposed project, the review standards that could, or could not, be applied, and what qualifies as a housing development. Additionally, the bill would increase the potential damages that a project applicant could seek in the event that a local agency was found in violation of the Housing Accountability Act.

No official support yet listed for the current version of the bill.

Opposition

While there is not yet any official opposition to SB 592, historically opponents of legislation to amend the Housing Accountability Act have contended that the current version of the Act is sufficient to ensure that developments comply with local standards and would not impact public health or safety. Additionally, opponents have argued that increasing the fines and penalties associated with the Act does nothing to promote the

creation of additional housing and can serve as a deterrent to local agencies working with project applicants to remedy issued with proposed developments.

No official opposition yet listed for the current version of the bill.

Potential Impact

SB 592 could potentially limit the City's ability to review housing developments to ensure that local requirements are met. The bill would limit the ability of the City to add conditions of approval based on standards that are not clearly objective, including factors that may impair the project's economic viability. Ultimately, this measure limits the City's local control over the appropriate location, scale, and character of residential development.

Prepared by: Townsend Public Affairs

Attachments:

A- Draft SB 592 Opposition Letter