

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2584 (Daly) – As Introduced February 19, 2016

SUBJECT: Land use: housing development

SUMMARY: Authorizes an entity representing a housing provider or potential tenant to act to enforce the Housing Accountability Act (HAA). Specifically, **this bill:** Adds to the list of those eligible to bring an action to enforce the HAA to include an entity that represents a housing provider or a person who would be eligible for residency in the proposed development.

EXISTING LAW:

- 1) Defines “housing development project” to mean a use consisting of any of the following:
 - a. Residential units only.
 - b. Mixed-use developments consisting of residential and nonresidential uses as specified.
 - c. Transitional housing or supportive housing.
- 2) Defines “disapprove the development project” to include any instance in which a local agency either:
 - a. Votes on a proposed housing development project and the application is disapproved;
or
 - b. Fails to comply with the required time period for approval or disapproval required by law.
- 3) Prohibits a local agency from disapproving a proposed housing development project for very low-, low-, or moderate-income households or an emergency shelter unless it makes written findings as specified.
 - a. The jurisdiction has adopted and revised its housing element as required by law and has met its share of the regional housing need allocation.
 - b. The proposed development project would have a specific adverse impact upon public health or safety that cannot be mitigated without rendering the development unaffordable or shelter infeasible.
 - c. The denial of the proposed development project is required to comply with specific state or federal law and there is no feasible method to comply without rendering the development unaffordable or shelter infeasible.
 - d. The development project or emergency shelter is proposed on land that does not have adequate water or waste water facilities, or is zoned for agriculture or resource preservation as specified.

- e. The proposed development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general as it existed on the date the application was deemed complete.
- 4) Requires, if a jurisdiction denies approval or imposes restrictions that have a substantial adverse effect on the viability or affordability of a housing development for very low-, low-, or moderate-income households and is the subject of a court action which challenges the denial, the burden of proof to be on the local legislative body
- 5) Authorizes the applicant or any person who would be eligible to apply for residency in the proposed development or emergency shelter to bring an action to enforce the Housing Accountability Act.

FISCAL EFFECT: Unknown

COMMENTS:

Current housing element law requires each local jurisdiction to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development. To the extent that a community does not have adequate sites within its existing inventory of residentially zoned land, then the community must adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

Current law, the HAA, requires a city or county to make one of the following findings, based on substantial evidence in the record, in order to disapprove an affordable housing project:

- 1) The city or county has adopted an updated housing element in substantial compliance with the law, and the community has met its share of the regional housing need for that income category.
- 2) The project would have a specific, adverse impact on the public health or safety, and there is no way to mitigate or avoid the impact.
- 3) The denial is required to comply with state or federal law.
- 4) The project is located on agricultural or resource preservation land that does not have adequate water or waste water facilities.
- 5) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

Under current law, if a project was disapproved in violation of the HAA, only the project developer or an eligible tenant of the proposed development may bring action against the jurisdiction to enforce the provisions of the Act. AB 2584 would expand the enforcement

provision of the HAA by also allowing groups that represent tenants or housing providers to bring a legal action when a local government fails to comply with the Act.

Purpose of the bill: According to the author: “For nearly 30 years, California’s Housing Accountability Act has been a tool to ensure that new housing gets constructed. Under the HAA, local governments must follow certain legal mandates before denying a housing development application. AB 2584 would strengthen the HAA by expanding the list of those who can help enforce its provisions.”

Arguments in support: According to the sponsor the California Apartment Association: “California is in the midst of an unprecedented housing crisis caused by a severe lack of new housing construction, both market rate and affordable. One of the most significant barriers to the construction of new affordable housing is unjustified local resistance from NIMBY (Not in My Backyard) groups... AB 2584 applies appropriate pressure on local governments and citizens who attempt to stop the projects with no good cause. Ultimately, allowing organizations that represent housing or tenant interests to enforce the HAA will help combat NIMBY concerns and lead to the construction of more housing.”

Arguments in opposition: According to the League of California Cities: “This is a serious expansion of the law. If a city has violated the law, then the developer should be the first person to bring legal action. Such a person will, in most cases, be represented by an “entity that represents people eligible to live in the housing.” Allowing those entities to sue on their own means disconnecting the city’s decision from the people that it affects.”

Staff comments: AB 2584 expands the enforcement provision of the HAA by allowing an “entity representing a housing provider” to bring legal action, however this is not well-defined. The committee may wish to consider the following amendment to more clearly define the scope of the bill:

On page 8, line 21, delete and replace “an entity representing a housing provider or a person who would be eligible to apply for residency.” with “a housing organization”.

Add: “A housing organization” means a trade or industry group whose local members are primarily engaged in the construction or management of affordable housing units, or a non-profit organization whose mission includes providing or advocating for increased access to affordable housing for low-income households.

Double referred: If AB 2584 passes this committee, the bill will be referred to the Committee on Judiciary.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association (Sponsor)
Apartment Association of Greater Los Angeles
California Rural Legal Assistance Foundation
Santa Barbara Rental Property Association
Western Center on Law & Poverty

Opposition

League of California Cities

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