

Date of Hearing: May 20, 2020

**ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT**

David Chiu, Chair

AB 2988 (Chu) – As Amended May 4, 2020

**SUBJECT:** Planning and zoning: supportive housing: number of units: emergency shelter zones

**SUMMARY:** Makes changes to AB 2162 (Chiu), Chapter 753, Statutes of 2018, to allow more supportive housing developments to qualify for a streamlined approval process. Specifically, **this bill:**

- 1) Adds a definition of “continuum of care” consistent with the federal definition.
- 2) Makes a supportive housing development a use by right in zones where emergency shelters are permitted.
- 3) Makes a supportive housing development of 120 units or less (rather than 50 units or less) a use by right if it is located in a city with a population of 150,000 (rather than 200,000 or less) or the unincorporated area of a county with a population of 150,000 or less (rather than 200,000 or less).

**EXISTING LAW:**

- 1) Requires supportive housing to be a use by right in zones where multifamily and mixed uses are permitted, including in non-residential zones permitting multifamily uses, if the proposed housing development satisfies all of the following requirements:
  - a) Units within the development are subject to a recorded affordability restriction for 55 years;
  - b) 100 percent of the units, excluding manager's units, within the development are dedicated to lower-income households and are receiving public funding to ensure affordability of the housing to lower-income Californians;
  - c) At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing. Requires, if the development consists of fewer than 15 units, that 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing;
  - d) Nonresidential floor area shall be used for onsite supportive services in the following amounts:
    - i) For a development with 20 or fewer total units, at least 90 square feet shall be provided for onsite supportive services;
    - ii) For a development with more than 20 units, at least three percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens;

- e) The developer replaces any pre-existing dwelling units on the site of the supportive housing development, as provided.
- 2) Provides that in a city or the unincorporated area of the county where the population is 200,000 or less and the homeless population based on the annual point-in-time count is 1,500 or less, use by right applies to developments of 50 units or less. A city or county meeting this description may adopt a policy to approve developments by right above 50 units.
- 3) Allows a local government to require a supportive housing development to comply with objective, written development standards and policies; provided, however, that the development shall only be subject to the objective standards and policies that apply to other multifamily development within the same zone.
- 4) Requires a developer of supportive housing to provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project, and describing those services, as specified.
- 5) Requires the local government to approve a supportive housing development that complies with the requirements of this bill.
- 6) Prohibits the local government from imposing any minimum parking requirements for the units occupied by supportive housing residents, if the supportive housing development is located within one-half mile of a public transit stop.
- 7) Defines the following terms:
  - a) “Supportive housing” to mean housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.
  - b) “Supportive services” to include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.
  - c) “Use by right” to mean the local government's review of the owner-occupied or multifamily residential use is not subject to a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of the California Environmental Quality Act (CEQA), as specified.

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Author's statement:* According to the author, “California is experiencing a housing crisis, and homelessness is on the rise. COVID-19 has worsened California’s housing crisis, and we need to pass policies that promote sensible development of different housing options. AB 2988 will

create more opportunities to efficiently build permanent supportive housing to provide long-term housing and care to those who are experiencing homelessness, have a disability, or both. California is an inclusive state, and we need to continue to ensure that our vulnerable individuals do not get left behind.”

*Background:* California has the largest homeless population in the nation with 151,278 people experiencing homelessness on any given night in the state. Many of those people, 108,432, are unsheltered, meaning they are living outdoors. The state and local communities have made significant investments to increase the supply of affordable housing and housing for those who are experiencing homelessness. In 2016, the Legislature passed No Place Like Home, creating \$2 billion in new funding for construction of supportive housing units. In November 2018, voters approved a \$4 billion bond to fund affordable housing that includes \$1.5 billion for affordable housing developments. SB 2 (Atkins), Chapter 364, Statutes of 2017, generates ongoing funding for affordable housing including significant funding in the first year to address homelessness. Finally, in fiscal years 2018-19 and 2019-20, the state provided over \$1 billion in one-time funding to Continuum of Care, cities, and counties to address the unsheltered population of homeless people.

*Supportive Housing:* Decades of research show that supportive housing with a Housing First requirement – a stable, affordable place to live with no limit on that stay, along with services that promote housing stability – ends homelessness among people who experience chronic homelessness. Supportive housing lowers public health costs, reduces blight and improves property values, and decreases recidivism in our local jails and state prisons. For these reasons, the state has invested millions of dollars in leveraging federal and local dollars to create more supportive housing. Despite growing local, state, and federal recognition of supportive housing as an evidence-based intervention for homeless residents, planners and local policymakers face opposition to supportive housing projects. Under the current approval process, supportive housing projects can take up to three or more years to develop.

*Streamlining for Supportive Housing:* Some local governments permit housing as a "use by right" which allows city and county planners to approve a housing development through an administrative process without a public hearing. However, this practice is uncommon and does not typically include supportive housing developments. By right approval does not allow for a conditional use permit, planned unit development permit, or other discretionary local government review or CEQA review, which triggers public hearings and potential opposition to a housing development.

*AB 2162 (Chiu):* AB 2162 (Chiu), Chapter 753, Statutes of 2018, made supportive housing developments a use by right. Local governments cannot apply a conditional use permit or other discretionary approvals to 100 percent affordable developments that include a percentage of supportive housing units, either 25 percent of the units or 12 units, whichever is greater, on sites that are zoned for residential use. Developments must include facilities and onsite services for residents of the supportive housing units. In addition, developers must provide the local government the name of the service provider, staffing levels, and funding sources for the services. Local governments can apply objective and quantifiable design standards to a development and must notify a developer within 30 days if the project application is complete and within 60 days if the project met the requirements for streamlining. Since the bill passed, the author's office has learned of several developments using the streamlined process.

Supportive housing developments require public subsidy from local or state programs to finance the development. These programs trigger the requirement that developers pay prevailing wages. Although AB 2162 did not specifically require prevailing wages to qualify for streamlining, in practice those prevailing wages are required.

*Changes to AB 2162:* AB 2162 (Chiu) limits the ability for developers to access by right for supportive housing in some cities and unincorporated areas of counties. In cities or unincorporated areas of a county with both populations of 200,000 or less and when the most recent homeless point-in-time count is 1,500 people or less, then only supportive housing developments of 50 units or less are a use by right. According to the sponsor of this bill, this limitation has had a negative impact on the number of supportive housing units that can be produced efficiently to house the over 150,000 people experiencing homelessness in the state.

AB 2988 would revise this limitation and make developments of up to 120 units a use by right in cities and the unincorporated area of a county where the population of the county is 150,000 or less. As a result, more supportive housing will be built in the state.

*Sites zoned for emergency housing:* Supportive housing projects are a use by right on land zoned for multi-family, mixed use and non-residential zones that permit multifamily uses. This bill would add sites zoned for emergency shelter. As part of the housing element, a local government is required to identify zones where emergency shelters can be approved by right. **The committee may wish to consider that emergency housing is different than supportive housing in that it is meant to be temporary and some cities choose commercial sites that may not be appropriate for permanent housing.**

*Arguments in support:* According to the California Housing Consortium, “AB 2899 amends AB 2162 in two important ways. First, it lifts the unit cap on eligible streamlined supportive housing projects from 50 units to 120 units and reduces the number of jurisdictions that are subject to the cap. While jurisdictions will still be able to apply local development standards in reviewing an application to build supportive housing, increasing the unit cap will allow developers to leverage this tool more effectively. Capping a development at 50 units not only has the effect of driving up costs for a developer, it also limits their ability to effectively use other tools like state density bonus law. Additionally, the more densely we can build, the cheaper the cost of per unit and the more likely that a supportive housing project will “pencil out.” Second, AB 2988 expands the zones where supportive housing can be built to include areas where shelters are permitted. This simple fix will open up more land locally where projects can be built.”

*Arguments in opposition:* The California Building Trades and California Conference of Carpenters are opposed to the expansion of by right from 50 units to 120 units in cities and counties with populations of 200,000 or less because to access by right developers are not required in statute to pay prevailing wage and hire a skilled and trained workforce.

*Committee amendments:*

To clarify the bill the intent of the bill the committee may wish to consider the following amendments:

Amendment 1:

On Page 5, strike lines 4-15 and replace with the following, which is less complicated and clarifies that, projects of 120 units or less are by right in the unincorporated of a county where the population of the county is 150,000 or less, instead of when the population of the unincorporated area of the county is 150,000 or less.

~~(d) If the proposed housing development is located within a city with a population of fewer than 200,000 150,000 or the an unincorporated area of a county in which the county's with a population of fewer than 200,000, and the city or the unincorporated area of the county has a population of persons experiencing homelessness of 1,500 or fewer, according to 150,000 and located within a region served by a continuum of care and the most recently published homeless point-in-time count, the total homeless point-in-time count for the region is 1,500 or fewer, the~~ development, in addition to the requirements of subdivision (a), shall consist of ~~50 120~~ units or fewer to be a use by right pursuant to this article. A city or county described in this subdivision may develop a policy to approve as a use by right proposed housing developments with a limit higher than ~~50 120~~ units. A policy by a city or county to approve as a use by right proposed housing developments with a limit higher than ~~50 120~~ units does not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

*If a proposed development is located within a city with a population of fewer than 150,000 and is located within in a region served by a continuum of care and the most recently published total homeless point-in-time count for the region is 1,500 or fewer, the development, in addition to the requirements of subdivision (a), shall consist of 120 units or fewer to be a use by right pursuant to this article.*

*If a proposed development is located within an unincorporated area of a county in which the county's population is fewer than 150,000 and is located within in a region served by a continuum of care and the most recently published total homeless point-in-time count for the region is 1,500 or fewer, the development, in addition to the requirements of subdivision (a), shall consist of 120 units or fewer to be a use by right pursuant to this article.*

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Housing Consortium (Co-Sponsor)  
 Housing California (Co-Sponsor)  
 AIDS Healthcare Foundation  
 American Planning Association, California Chapter  
 California Coalition for Rural Housing  
 California Rural Legal Assistance Foundation  
 Coachella Valley Housing Coalition  
 Community Economics  
 Corporation for Supportive Housing  
 Disability Rights California  
 National Association of Social Workers, California Chapter  
 Non-profit Housing Association of Northern California  
 San Diego Housing Federation  
 San Francisco Foundation  
 Southern California Association of Nonprofit Housing

Western Center on Law & Poverty  
Working Partnerships USA  
3 Individuals

**Opposition**

California Conference of Carpenters  
California State Council of Laborers  
District Council of Iron Workers of The State of California and Vicinity  
International Union of Operating Engineers, Cal-Nevada Conference  
State Building and Construction Trades Council of California  
5 Individuals

**Analysis Prepared by:** Lisa Engel / H. & C.D. / (916) 319-2085