

Date of Hearing: April 19, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 879 (Grayson) – As Introduced February 16, 2017

SUBJECT: Planning and zoning: housing element

SUMMARY: Requires local governments to include, in their housing elements, an expanded analysis of nongovernmental constraints on housing development, as well as efforts to remove those constraints. Specifically, **this bill:**

- 1) Requires a housing element's analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels to include:
 - a) Requests to develop housing at densities below those specified in the housing element's analysis of sites zoned at density levels to accommodate the local government's share of the regional housing need;
 - b) The length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a local government's share of the regional housing need; and
 - c) Any local efforts to remove nongovernmental constraints that create a gap between the local government's planning for the development of housing for all income levels and the construction of that housing.
- 2) Requires a housing element to address and, where appropriate and legally possible, remove nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities.

EXISTING LAW:

- 1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element (Govt. Code Sections 65300 and 65302).
- 2) Requires a housing element 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 (Govt. Code Section 65583).
- 3) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years (Govt. Code Section 65588).

- 4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with the Department of Housing and Community Development (HCD), prepare a regional housing needs assessment (RHNA) and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. Where a COG does not exist, HCD determines the local share of the region's housing need (Govt. Code Sections 65584-65584.09).
- 5) Requires housing elements to include an inventory of land suitable for residential development that identifies enough sites that can be developed for housing within the planning period to accommodate the local government's entire share of the RHNA (Govt. Code Sections 65583 and 65583.2).
- 6) Allows a local government to do either of the following in order to show that a site is adequate to accommodate some portion of its share of the RHNA for lower-income households:
 - a) Provide an analysis demonstrating that the site is adequate to support lower-income housing development at its zoned density level, and requires the analysis to include, but not be limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households; or
 - b) Zone the site at the jurisdiction's "default" density level.(Govt. Code Section 65583.2)
- 7) Requires a housing element to include an analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.
- 8) Requires the analysis described above in 7) to demonstrate local efforts to remove governmental constraints that hinder the local government from meeting its share of the RHNA and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
- 9) Requires a housing element to include an analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
- 10) Requires a housing element to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities (Government Code Section 65583).

FISCAL EFFECT: Unknown

COMMENTS:

Background: Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when HCD determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the RHNA. The Council of Governments (COG) for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors.

In preparing its housing element, a local government must show how it plans to accommodate its share of the RHNA. The housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Included in this analysis is an assessment of both governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

This bill would require the analysis of nongovernmental constraints to include information about any requests to develop housing at lower densities below those specified in the housing element's analysis of density levels zoned to accommodate the local government's share of the RHNA, the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a local government's share of the RHNA, and any local efforts to remove nongovernmental constraints that create a gap between the local government's planning for the development of housing for all income levels and the construction of that housing. Nothing under existing law would prevent a local government from providing this information, but this bill would require all local governments to undertake this expanded analysis of nongovernmental constraints.

Existing law also requires a local government's housing element to address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing. This bill would expand this analysis by requiring the housing element to also address and remove nongovernmental constraints.

Need for the bill: According to the author, nongovernmental constraints, such as long and short term economic trends, declining sources of state and federal funding, and changes in interest rates, all have a significant impact on the development of housing stock. There is currently no uniform way of quantifying these effects. The author contends that "AB 879 will lead to a more comprehensive understanding of the factors affecting housing development by requiring housing element reports to include an analysis of potential and actual nongovernmental constraints upon the development, maintenance, and improvement of housing for all income levels. AB 879 also requires local governments to include within the analysis their efforts to remove nongovernmental constraints that hinder housing construction. By identifying these constraints and developing a plan of action to overcome them, this bill will help local governments to address California's housing crisis."

Committee amendments:

The Committee amendments make a technical change to better reflect the author's intent.

The Committee amendments are as follows:

1. On page 4, in line 31, strike out "(A)"
2. On page 5, strike lines 8 through 20, inclusive.
3. On page 5, in line 24, strike "and"
3. On page 5, in line 24, strike out "construction." and insert:

construction, requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

Related legislation:

AB 686 (Santiago, 2017): Would require a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and requires any public agency required to adopt a housing element or a sustainable communities strategy to include in those plans an analysis of barriers that restrict access to opportunity and a commitment to specific meaningful actions to affirmatively further fair housing. *This bill is pending in the Assembly Judiciary Committee.*

AB 1397 (Low, 2017): Makes a number of changes to housing element law by revising what may be included in a local government's inventory of land suitable for residential development. *This bill is pending in the Assembly Committee on Housing and Community Development.*

Double-referred: This bill was also referred to the Local Government Committee where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

League of California Cities (sponsor)
California Apartment Association
California Association of Realtors
City of Indian Wells

Opposition

None received

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