

Date of Hearing: July 3, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 672 (Hill) – As Amended April 25, 2019

SENATE VOTE: 38-0

SUBJECT: Planning and zoning: regional housing need allocation: City of Brisbane

SUMMARY: Prohibits the Association of Bay Area Governments (ABAG) from allocating the City of Brisbane a regional housing needs allocation (RHNA) share that exceeds the City's allocation for the prior planning period, if specified conditions are met. Specifically, **this bill:**

- 1) Prohibits ABAG, in the current and next planning period, from allocating the City of Brisbane a RHNA share that exceeds Brisbane's RHNA allocation for the prior planning period, if all of the following apply:
 - a) Brisbane has taken action during the current planning period to zone or rezone sites sufficient to accommodate 615 percent or more of its RHNA for the current planning period;
 - b) Brisbane maintains or rezones sites sufficient to accommodate 615 percent or more of its RHNA for the next planning period;
 - c) Brisbane agrees to provide a copy of its APR to ABAG for each year of the current and next planning period; and
 - d) The City of Brisbane approves a specific plan within 24 months of the developer of the Brisbane Baylands project submitting a revised application that satisfies the applicable criteria of the city's general plan, as amended by ballot initiative in November 2018.
- 2) Requires Brisbane, in the current and next planning period, to include in its APR information regarding demonstrable progress on meeting the 615 percent RHNA share.
- 3) Provides that if Brisbane fails to provide information in its APR showing demonstrable progress, as determined by the Department of Housing and Community Development (HCD), or fails to comply with the other requirements of this bill, HCD shall immediately determine that Brisbane's housing element is out of compliance and report it to the Attorney General.
- 4) Provides that this bill does not waive or reduce Brisbane's obligation to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining unmet share of its regional housing need.
- 5) Provides that if at any time the site used to comply with this bill is deemed no longer adequate to meet the 615 percent zoning requirement, the City of Brisbane must identify and make available additional sites to accommodate its RHNA within 180 days.
- 6) States legislative intent regarding the unique circumstances relating to the RHNA allocation needs in the county.

EXISTING LAW:

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must 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.
- 2) 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.
- 3) Provides that each community's fair share of housing be determined through the RHNA process, which is composed of three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates; (b) council of governments (COGs) allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.
- 4) Requires COGs to provide specified data assumptions to HCD from each COG's projections.
- 5) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 6) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 7) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low- and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.
- 8) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.
- 9) Requires each jurisdiction to submit an annual progress report (APR) to HCD regarding its progress in meeting its RHNA allocation.
- 10) Authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

FISCAL EFFECT: Unknown.

COMMENTS:

Purpose of the Bill: According to the author, “SB 672 allows Brisbane to focus its efforts on getting the Baylands – an important regional project – developed properly. The bill does this by ensuring consistency in Brisbane’s regional housing needs allocations during this planning cycle and the next, in recognition of the commitment already made by the city’s voters to double its housing stock. SB 672 is not a gift. That is, the benefit to Brisbane under the bill is only available if the city continues to make steady progress with the Baylands development under the oversight of the Department of Housing and Community Development.”

Background: The genesis of this bill is a project called the Brisbane Baylands. This roughly 660-acre tract is located just south of San Francisco in the city of Brisbane. The site location is highly desirable, as it is located close to rapidly developing southeast San Francisco and at the confluence of multiple modes of transportation. However, decades of industrial uses, including a municipal landfill and a railyard, have made the land toxic and costly to develop.

Development Proposal for Brisbane Baylands: The site has been owned since 1989 by the Universal Paragon Corporation (UPC), a real estate design and development firm based in San Francisco. UPC underwent various concept plans for the site before submitting a specific plan in 2006, which was later updated significantly and eventually became the “Developer Sponsored Plan” (DSP). In 2009, the city began developing an alternative, the “Community Proposed Plan” (CPP) with input from residents. The key difference between the two plans was that the CPP did not include any housing, while the DSP included 4,434 housing units. The environmental impact report on the DSP was completed in 2015 and the planning commission completed its review the following year, with the proposal going to city council in the fall of 2016. The City countered with an updated CPP. The City ultimately developed Measure JJ as an alternative to the DSP. Measure JJ amends the general plan to rezone the Baylands site to allow for up to 2,200 units of housing, of which at least 15 percent must be affordable. While the general plan amendment did not require voter approval, the City Council opted to place the measure on the November 2018 ballot, where it was approved by a 55 percent to 45 percent margin.

Before housing can be built on the Baylands site, a great deal of remediation will be necessary, which will take a number of years. Additionally a new specific plan must be developed for the entire site because the old plan was aligned with the DSP. The revised specific plan must address issues such as securing an adequate water supply, protecting key habitat areas, flood protection and sea-level rise, and providing revenue-positive development for the city. In January 2019, UPC delivered a letter of intent to the Brisbane City Council declaring its intent to revise the specific plan to conform with Measure JJ with a range of 1,800-2,200 units. The City Council must approve the final specific plan. There is no guarantee that this approval will take place, given the strong opposition garnered by the project. Even upon approval, it will take a number of years to plan, remediate, and develop the Baylands site.

The bill is intended to facilitate Brisbane’s commitment to development of housing on the Baylands site while holding the city accountable for doing so. It does by keeping Brisbane’s RHNA requirement the same through the rest of this housing element cycle (2015-2022) and the next one (2023-2030) if certain conditions are met by the City, including:

- That it zone to accommodate 615% or more of its RHNA for the current planning period. Note that the 615% reflects the amount of development it would take to reach 1,800 units on the Baylands site given Brisbane's current RHNA of 263 units.
- That it demonstrate annually to HCD that demonstrable progress has been made to meeting its RHNA share on the site.
- That Brisbane still zone to accommodate the remaining unmet share of the RHNA.

The bill also includes penalties if the conditions are not met, including:

- For any failure to comply with the requirements of this bill, HCD must immediately determine that Brisbane's housing element is out of compliance and report it to the Attorney General.
- If the site is no longer viable to accommodate the proposed development then Brisbane has 180 days to find alternative sites to meet its RHNA.

Related Legislation:

SB 235 (Dodd, 2019) allows the City of Napa and the County of Napa to reach an agreement under which the County will be allowed to count certain housing units built within the city toward the County's RHNA requirement. *The bill was approved 8-0 by this Committee and is pending hearing in the Assembly Committee on Local Government.*

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

REGISTERED SUPPORT / OPPOSITION:

Support

City of Brisbane (Sponsor)
League of California Cities

Opposition

None on File

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