

Date of Hearing: April 13, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2208 (Santiago) – As Amended April 4, 2016

SUBJECT: Local planning: housing element: inventory of land for residential development

SUMMARY: Adds to the list of the types of sites that a local government can identify as suitable for residential development in the housing element. Specifically, **this bill:**

- 1) Adds the following to the list of "land suitable for residential development"
 - a) Buildings owned or under the control of a city or county, zoned for residential use and capable of having residential developments constructed above the existing building;
 - b) Buildings owned or under the control of a city or a county and zoned for nonresidential use that can be rezoned for residential use and are capable of having residential developments constructed above the building;
 - c) Underutilized sites zoned for residential use; and
 - d) Underutilized sites zoned for nonresidential use that allow residential development.
- 2) Defines "underutilized sites" to mean properties or portions of a property that are used only at irregular periods or intermittently by the accountable agency of the local government or a property that is being used for the accountable agency's current program purposes that can be satisfied with only a portion of the property.

EXISTING LAW:

- 1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element.
- 2) Divides the RHNA into the following income categories:
 - a) Very low-income (50% or lower of area median income), including extremely low-income (30% or lower of area median income);
 - b) Low-income (80% or lower of area median income);
 - c) Moderate-income (between 80% and 120% of area median income); and
 - d) Above moderate-income (exceeding 120% area median income).
- 3) Requires a jurisdiction's 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.

- 4) Requires a local government to inventory land suitable for residential development to identify sites that can be developed to meet the jurisdiction's regional housing needs for all income levels. Provides that "land suitable for residential development" includes all of the following:
 - a) Vacant sites zoned for residential use;
 - b) Vacant sites zoned for nonresidential use that allows residential development;
 - c) Residentially zoned sites that are capable of being developed at higher density;
 - d) Sites zoned for nonresidential use that can be redeveloped for and as necessary, rezoned for, residential use.

FISCAL EFFECT: Unknown.

COMMENTS:

Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when Department of Housing and Community Development (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 regional housing needs assessment (RHNA). The 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 city or county must show how it plans to accommodate its share of the RHNA. The housing element must include an inventory of sites already zoned for housing. If a community does not have enough sites within its existing inventory of residentially zoned land to accommodate its entire RHNA, then the community must adopt a program to rezone land within the first three years of the planning period.

Cities and counties are required to demonstrate that sites are adequate to accommodate housing for each income group based on the zoning after taking into consideration individual site factors such as property size, existing uses, environmental constraints, and economic constraints. With respect to the zoning, density can be used as a proxy for affordability. Jurisdictions may establish the adequacy of a site for very low- or low-income housing by showing that it is zoned at the "default" density (also referred to as the Mullin density). These densities range from 10 to 30 units per acre depending on the type of jurisdiction. Jurisdictions may also include sites zoned at lower densities by providing an analysis of how the lower density can accommodate the need for affordable housing.

This bill would add underutilized sites and public buildings that are capable of having residential developments constructed above the existing structure to the types of sites that can be identified to accommodate the jurisdictions share of RHNA.

Purpose of this bill: According to the author, "In many urban, dense areas, there is a distinct lack of land that can be used for affordable housing. In fact, the City of Los Angeles is about to hit its development limit. The city is now zoned to house, at most, 4.2 million people. The current

population is 3.9 million. There were 28,000 new housing starts in the Los Angeles metro area last year (population 13 million), versus 64,000 in Houston (population 2 million). In California's largest urban areas, and those where land costs are the highest, it is particularly important that local governments and developers both think outside the box on how to use land and space more effectively. AB 2208 takes an important step in this direction by requiring that local governments specifically consider non-traditional spaces in their property surveys for housing. AB 2208 requires local governments to include underutilized land, and available air rights when surveying property that may be applicable for use in affordable housing as a part of their Housing Element."

Arguments in opposition: According to the American Planning Association, California Chapter, "the requirement to assess the potential addition of housing on top of existing public facilities isn't viable. In order to add additional floors to an existing operating public facility, the facility must be built with the knowledge or potential for adding housing so that the structure below the housing meets code requirements to carry the weight and height of the added housing development."

Staff Comments:

The purpose of requiring a local government to identify a land suitable for residential development is to ensure that there are enough sites that are available to meet the local jurisdictions RHNA. The committee may wish to consider that the definition of underutilized and public buildings on which housing can be built above may not be adequately defined and could result in sites not suitable for residential development being included in the jurisdictions housing element.

Double referred: If AB 2208 passes this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Apartment Association
League of California Cities

Opposition

American Planning Association, California Chapter

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