

Date of Hearing: April 17, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 116 (Bocanegra) – As Amended: March 20, 2013

SUBJECT: Land use: subdivision maps: expiration dates.

SUMMARY: Extends by 24 months the expiration date for specified subdivision maps that will expire prior to January 1, 2016. Specifically, this bill:

- 1) Extends by 24 months the expiration date of any tentative map, vesting tentative map, or parcel map for which a tentative map or tentative vesting map has been approved that has not expired before the bill becomes effective and that will expire before January 1, 2016.
- 2) Extends by 24 months the expiration date for any legislative, administrative, or other approval by a state agency relating to a development project included in a map that is extended, so long as the approval has not expired before the bill becomes effective.
- 3) Provides that the determination on whether or not a subdivision map expires before January 1, 2016, shall take into account previous discretionary extensions, but not include extensions because of litigation stays and development moratoria.
- 4) Reduces from five years to three years the time during which a city, county, or city and county cannot add additional requirements on a building permit after a final map is recorded for maps extended pursuant to this measure.
- 5) Specifies that having an extension pursuant to this measure does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee upon the issuance of a building permit, including fees imposed pursuant the Mitigation Fee Act.
- 6) Contains an urgency clause.

EXISTING LAW

- 1) Establishes, pursuant to the Subdivision Map Act (Map Act), a statewide regulatory framework for controlling the subdividing of land, which generally requires a subdivider to submit, and have approved by the city, county, or city and county in which the land is situated, a tentative map (Government Code Section 66410, et seq.).
- 2) Provides for the expiration of tentative maps after specified periods of time (Government Code Section 66410, et seq.).
- 3) Authorizes cities and counties to grant discretionary map extensions for up to six years (Government Code Section 66463.5).
- 4) Extends by 24 months the expiration date of any tentative map or parcel map for which a tentative map has been approved that had not expired on September 13, 1993 (Government Code Section 66452.11).

- 5) Extends by 12 months the expiration date of any tentative map or parcel map for which a tentative map has been approved that had not expired on May 14, 1996 (Government Code Section 66452.13).
- 6) Extends by 12 months the expiration date of any tentative map or parcel map for which a tentative map has been approved that had not expired on January 1, 2011 (Government Code Section 66452.21).
- 7) Extends the expiration date by 24 months for specified subdivision maps that will expire before January 1, 2012 (Government Code Section 66452.22).
- 8) Extends the expiration date by 24 months for specified subdivision maps that will expire before January 1, 2014 (Government Code Section 66452.23).
- 9) Prohibits a city, county, or city and county, during the five-year period following the recordation of the final or parcel map for the subdivision of single- or multiple-family residential units, from requiring as a condition to issuance of any building permit or equivalent permit, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map, except that a city or county may do any of the following:
 - a) Impose conditions or requirements upon the issuance of a building permit or equivalent permit that could have been lawfully imposed as a condition to the approval of a tentative or parcel map if the local agency finds it necessary to impose the condition or requirement for any of the following reasons:
 - i) A failure to do so would place the residents of the subdivision or of the immediate community, or both, in a condition perilous to their health or safety, or both.
 - ii) The condition is required in order to comply with state or federal law.
 - b) Withhold or refuse to issue a building permit or equivalent permit if the local agency finds it is required to do so in order to comply with state or federal law.
 - c) Assuring compliance with the applicable zoning ordinance.

(Government Code Section 65961).
- 10) Reduces from five years to three years the time during which a city, county, or city and county cannot add additional requirements on a building permit after a final map is recorded, if the map is extended using the provisions of Government Code Section 66452.22 or Government Code Section 66452.23 (Government Code Section 65961).
- 11) Specifies that having an extension pursuant to Government Code Section 66452.22 or Government Code Section 66452.23 does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee upon the issuance of a building permit, including fees related to the Mitigation Fee Act (Government Code Section 65961).

FISCAL EFFECT: Unknown

COMMENTS: "This measure is very critical to the economic recovery of California. The housing industry is mired in a deep recessionary trough. Because of the difficulty of securing financing, many projects for which maps have already been approved will soon expire in the next few years, thereby requiring developers to go through the entitlement process again. The housing industry wants to be in a position to take full advantage of any economic resurgence. This bill would allow a one-time, 24-month extension of existing maps and not future subdivision maps."

The above paragraph is taken from the Senate Floor Analysis of SB 428 (Thompson), Chapter 407, Statutes of 1993. At that time, the state was in the midst of a deep recession. SB 428, one of the many Legislative responses to that crisis, granted a one-time, 24-month extension for tentative and parcel maps that had not expired as of the enacting legislation's chaptering date of September 13, 1993. A further response to the same economic slowdown came with AB 771 (Aguiar), Chapter 46, Statutes of 1996, which created a 12-month extension for maps that had not expired as of May 14, 1996.

With the state again struggling with a major economic downturn, the Legislature passed SB 1185 (Lowenthal), Chapter 124, Statutes of 2008, which granted a one-time 12-month extension for tentative and parcel maps that had not expired as of the enacting legislation's chaptering date of July 15, 2008. In addition, SB 1185 let local officials grant an additional year at their discretion. In 2009 the Legislature passed AB 333 (Fuentes), Chapter 18, Statutes of 2009, to allow for an additional two-year extension on maps that had not expired before July 15, 2009. AB 208 (Fuentes), Chapter 88, Statutes of 2011, provided another two-year extension for maps that had not expired before July 15, 2011.

Two years later, the building industry continues to struggle to recover from the recession and real estate developers face the prospect of having their tentative and parcel maps expire before they can obtain financing or have their projects make economic sense to build. Given the continuing economic crisis, the author wants the Legislature to provide another two-year extension in order to sustain the life of maps. AB 116 would extend by 24 months the expiration date for subdivision maps that have not expired by the time the bill is enacted and that will expire prior to January 1, 2016.

According to the author, the best available information indicates that statewide, there are approximately 3,300 active tentative maps representing approximately 450,000 potential housing units. AB 116 seeks to extend only a portion of those maps, those that will expire between the date the bill is enacted and January 1, 2016. The author notes that a significant number of the affected maps are for higher density, multifamily development, targeting affordable to middle-income working individuals and families. The author argues that without AB 116, the construction projects associated with the active maps could be lost, stalling the significant economic investments made to date and forcing project proponents to begin the costly entitlement process anew.

The League of California Cities, the California State Association of Counties, and the American Planning Association, California Chapter, all have a support of amended position on AB 116. The three organizations have requested that the two-year extension be automatic only for maps that are 12 years or younger (tolling for any time spent in litigation), and at the discretion of the

local government for any that are older than 12 years. While generally supportive of keeping maps alive, local governments are concerned that due to so many successive automatic extensions, there are many maps that are simply too old. As CSAC notes, "Another two-year extension on such old maps could prevent local governments from meeting goals and priorities established after original map approval, as well as comply with many new mandates that local agencies must now consider in approving a map. In addition to multiple housing element updates, local governments are dealing with new requirements as a result of the passage of AB 32 and SB 375 to address climate change impacts and move towards the development of more compact, sustainable communities, all of which impact local land use decisions."

Double-Referred: This bill was also referred to the Committee on Local Government, where it passed on April 3, 2013, by a vote of 9-0.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter (if amended)
Apartment Association of Greater Los Angeles
American Council of Engineering Companies California
Associated Builders and Contractors of California
California Building Industry Association
California Apartment Association
California Association of Realtors
California Building Officials
California Business Properties Association
California Chamber of Commerce
California Chapter of American Fence Association
California Fence Contractors Association
California State Association of Counties (if amended)
City of Torrance
Counties of Orange and San Diego
League of California Cities (if amended)
Engineering Contractors Association
Flasher Barricade Association
Golden State Builders Exchange
Marin Builders Association
Orange County Business Council
Rural County Representatives of California
San Diego County Apartment Association
Santa Barbara Rental Property Association
Southwest California Legislative Council
Sunshine Design
United Contractors

Opposition

None on file

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