

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: June 19, 2017

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tsoy
Chief Legislative Analyst

Assignment No: 17-05-0551

SUBJECT: Housing Streamline Bills (SUPPORT SEEK AMENDMENTS SB 540, and
OPPOSE SB 35, SB 167, AB 1585)

CLA RECOMMENDATION: Adopt Resolution to include in the City's 2017-2018 State
Legislative Program SUPPORT and Seek Amendments to SB 540, and OPPOSE SB 35, SB 167,
and AB 1585, regarding the streamlining of affordable housing developments.

SUMMARY

Several bills have been introduced in the 2017-2018 State Legislative session aimed at
streamlining the approval of affordable housing developments to promote the building of
affordable units. At the instruction of Council, we have reviewed SB 540, SB 35, SB 167, and
AB 1585. We recommend that the Council support SB 540 and seek amendments, and oppose
the other bills.

BACKGROUND

SB 540 (Roth) Support and Seek Amendments

This League of California Cities' sponsored bill provides a pre-development planning process for
the construction of affordable housing. The bill allows cities to create Workforce Housing
Opportunity Zones as an area of contiguous or noncontiguous parcels identified in the
jurisdiction's housing element. The bill authorizes a local government to establish a zone by
preparing an environmental impact report (EIR) to identify and mitigate environmental impacts
resulting from the establishment of that zone. The bill also authorizes a local government to
impose a specific plan fee on persons seeking governmental approvals within the zone to defray
the costs of preparing, adopting, and administering the plan and associated CEQA analysis.

After the adoption of the zone, a lead agency is not required to prepare an EIR or negative
environmental declaration for a housing development that satisfies the following criteria:

- The development is located on land within a Workforce Housing Opportunity Zone.
- At least 30 percent of the total units constructed or substantially rehabilitated in the zone
will be sold or rented to persons and families of moderate income (120 percent Area
Median Income (AMI) and below).

- At least 15 percent of the total units constructed or substantially rehabilitated in the zone will be sold or rented to lower income households (80 percent AMI and below).
- At least 5 percent of the total units constructed or substantially rehabilitated in the zone will be sold or rented for very low income households (50 percent AMI and below).

The developer of the affordable housing would be required to provide legal commitments to ensure continued availability of units for very low, low- moderate-, or middle-income households for 55 years for rental units and 45 years for owner-occupied units. The bill would further authorize a local government to apply for a no-interest loan from the Department of Housing and Community Development to support its efforts to develop a specific plan and accompanying EIR within the zone.

Upon review of SB 540, our Office recommends that the City support the bill and seek amendments to require that the affordability levels be applied on a project basis rather than on the entire zone. This change would provide more certainty that the required affordable housing will be built and ensures long-term compliance with the required affordability covenant. Due to the extensive monitoring and tracking required, a zone-based process could be difficult to manage and affordability requirements across a zone may not be developed or retained. SB 540 has passed the Senate and ordered to the Assembly.

SB 35 (Wiener) Oppose

The Regional Housing Need Assessment (RHNA) is mandated by State law and quantifies the need for housing within each jurisdiction during specified planning periods. Under SB 35, if cities are not on track to meet their RHNA goals, approval of zoning-compliant projects will be streamlined under certain State criteria. SB 35 establishes a ministerial approval process for developments that meet all of the following criteria:

- A multifamily housing development that contains two or more residential units.
- Located in an urban infill site as defined in current law.
- On a site zoned for residential use or residential mixed use development with at least two-thirds of the square footage designated for residential use.
- Located in a locality that has approved fewer units of housing by income category than was required for the current RHNA cycle, or has not submitted an annual housing element report for at least two consecutive years.

In addition, SB 35 applies an affordable housing requirement based on either of the following:

- The locality did not submit its latest production report to the Department of Housing and Community Development, or that report reflects that there were fewer units of above moderate-income housing approved than was required in the RHNA, and the project seeking approval dedicates a minimum of 10 percent of the total number of units to housing affordable to households making below 80 percent of the area median income.

- The locality did not submit its latest production report to the Department of Housing and Community Development, or that report reflects that there were fewer units of housing affordable to households making below 80 percent of the area median income approved than was required for the RHNA, and the project seeking approval dedicates the majority of the total number of units to housing affordable to households making below 80 percent of the area median income.

Further, a development approved under the bill is not subject to any local or State minimum parking requirements. SB 35 caps parking standards for eligible developments at one parking space per unit and prohibits local governments from imposing parking standards for an eligible development under specific conditions.

In order to streamline affordable housing production, SB 35 contains numerous provisions that would take local zoning control from the City and transfer it to the State. Removing standard review procedures takes away community review and comment, creating the potential for local conflict and construction of projects that do not meet community objectives for design, land use, or need. Further, the bill's provisions are pursuant to the City's performance against its RHNA numbers, which for Los Angeles are set by the Southern California Association of Governments (SCAG). RHNA numbers for local jurisdictions can be a source of contention amongst cities who disagree on how the housing need should be distributed. SB 35 could only make these conflicts more intense. For all of these reasons, our Office recommends the City oppose SB 35. The League of California Cities is opposed to SB 35. The bill recently passed the Senate and is pending in the Assembly.

SB 167 (Skinner) Oppose

The Housing Accountability Act of 1982 prohibits local agencies from disapproving affordable housing developments unless written findings are provided. SB 167 would broaden the Housing Accountability Act to specify that written findings are also required for market rate housing. In addition, SB 167 would impose penalties on local agencies that are unable to present sufficient justification for having disapproved an affordable housing development project. The bill would weaken local control over the approval of affordable housing development projects. Our Office recommends the City oppose SB 167 as it limits the City's control over development. The League of California Cities is opposed to SB 167. The bill recently passed the Senate and is pending in the Assembly.

AB 1585 (Bloom) Oppose

AB 1585 would establish a single permit application for affordable housing developments that either receive State, federal or local funding or include at least 15 percent affordable units (5 percent for individuals that make 60 percent of the area median income (AMI) and 10 percent for those that make 80 percent of the AMI). The bill creates a local affordable housing zoning board who would review such permits. Our Office recommends that the City oppose this bill as it limits the City's control over development and creates an additional review process that is not consistent with the City Charter and land use review procedures. The League of California Cities is opposed to SB 1585. The bill is pending in the Assembly.

DEPARTMENTS NOTIFIED

Housing and Community Investment Department
Department of City Planning



Clay McCarter
Analyst

Attachment: Resolution to SUPPORT and Seek Amendments SB 540, and OPPOSE SB 35, SB 167, AB 1585.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California is experiencing a housing shortage with 2.2 million extremely low-income and very low-income renter households competing for only 664,000 affordable rental homes, leaving more than 1.54 million of California's lowest income households without access to affordable housing; and

WHEREAS, California is home to 21 of the 30 most expensive rental housing markets in the nation, which has had a disproportionate impact on the middle class and the working poor; and

WHEREAS, to address the housing crisis, a number of California Assembly and Senate bills are pending that would streamline the planning process for affordable housing developments; and

WHEREAS, SB 540 (Roth) would provide an up-front planning process for the construction of affordable housing, by permitting cities to create Workforce Housing Opportunity Zones and prepare a zone-wide EIR that could be used by future affordable housing projects located in the zone; and

WHEREAS, the Workforce Housing Opportunity Zones would be required to have at least 30 percent of units be restricted to moderate income households, 15 percent of the units for lower income households, and 5 percent for very low income households; and

WHEREAS, by permitting developments to use a zone-wide EIR, such developments could be streamlined and units be brought to the rental market faster; and

WHEREAS, the City should support SB 540 if amended that the affordability levels apply on a project basis rather than the entire zone; and

WHEREAS, SB 35 (Wiener), SB 167 (Skinner), and AB 1585 (Bloom) are competing streamlining bills that supersede localities planning process to approve affordable housing developments in order to fast track development; and

WHEREAS, as these bills take local control from cities, they are opposed by the League of Cities and should be opposed by the City of Los Angeles; and

WHEREAS, SB 540, if amended, provides responsible streamlining affordable housing provisions and should be supported by the City of Los Angeles;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 State Legislative Program SUPPORT of SB 540 (Roth), which would provide an up-front planning process for the construction of affordable housing via Workforce Housing Opportunity Zones, and SEEK AMENDMENTS that the affordability levels apply on a project basis rather than the entire zone; and OPPOSE SB 35 (Wiener), SB 167 (Skinner), and AB 1585 (Bloom), competing streamlining bills that remove local control in the approval of affordable housing developments.