



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: September 10, 2013

Item Number: 43

Item Description: Referral to City Manager: Changes to Municipal Code Regarding Affordable Housing Requirement Implementation

Supplemental/Revision Submitted By: Jane Micallef, Director, Health, Housing & Community Services

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

On September 3, 2013, the State Senate passed AB 1229 Affirming Local Control of Affordable Housing: Inclusionary Zoning. The content of the bill is relevant to the Council’s discussion of item numbers 23 (Support AB 1229), 43, and 51 (Update on Monitoring Inclusionary Housing Rental Units).

The bill is now waiting for the Governor’s signature and advocates are campaigning for signature. If signed, the bill would clarify the legislative intent that inclusionary zoning does not conflict with the Costa Hawkins Rental Housing Act. This addresses the finding in the *Palmer vs. City of Los Angeles* case that prompted the City to adopt the Affordable Housing Mitigation fee in lieu of the Inclusionary Housing Ordinance for rental housing. If signed, the City would have the option of enforcing the Inclusionary Housing Ordinance again. The attached fact sheet gives more information.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Assemblymember Toni Atkins, 78th Assembly District

AB 1229 – Affirming Local Control of Affordable Housing: Inclusionary Zoning

IN BRIEF

AB 1229 would re-authorize cities and counties to adopt ordinances with inclusionary rental housing requirements for lower income households.

The purpose of the bill is to return local control to local governments to adopt and/or continue to implement their own inclusionary housing policies. This ability is restored by overturning a 2009 appellate court decision.

BACKGROUND

Inclusionary zoning (IZ) describes local land use ordinances that require a fractional portion of units in a new housing development to be offered at affordable levels to low-income and moderate-income families. Inclusionary units can be rental or homeownership units.

Inclusionary zoning policies have existed in California for nearly 40 years as a way to establish economically diverse communities with housing that is affordable to a range of income groups.

They help ensure that, as we build communities, there are places for workers to live near their jobs. They allow lower-income families to benefit from better schools and better services. These policies have also proven to reduce opposition to affordable housing by ensuring it's included at the beginning as the new community is developed.

Nearly 170 cities and counties have some form of inclusionary housing policy in place as a complement to other local, state, and federal programs to help address California's affordable housing shortage, combat discrimination, and reduce pollution and greenhouse gas emissions.

In the past decade alone, inclusionary programs have produced approximately 30,000 units of new housing affordable to lower-income households.

THE ISSUE

Local inclusionary housing programs have been successfully implemented in California for decades until very recently.

A recent appellate court decision, *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009), has created uncertainty and confusion for local governments about the availability of this important local land use tool.

The *Palmer* decision held for the first time that the state's Costa-Hawkins rent control law (*Civil Code* §§ 1954.50-1954.535) prohibits local governments from creating affordable rental housing through local inclusionary housing programs.

Now, this well-established policy that has provided quality affordable housing to over 80,000 Californians is in jeopardy.

THE SOLUTION

Local inclusionary housing programs in California have proven to be one of the most effective tools for producing new homes that are affordable to working families and for creating strong, economically diverse communities with a range of housing options.

Inclusionary housing policies have also allowed low-wage workers to live closer to their jobs, thereby reducing the state's pollution and greenhouse gas emissions. It is one of the best tools available to promote sustainable and greener communities.

AB 1229 would restore local control over these important land use decisions back to local governments.

FOR MORE INFORMATION

Cody Naylor, Office of Asm. Toni Atkins
916 319 2078 | cody.naylor@asm.ca.gov

Brian Augusta, Western Center on Law and Poverty
916 282 5103 | baugusta@wclp.org

Tyrone Buckley, California Rural Legal Assistance Foundation
916 446 9241 | tbuckley@crlaf.org