



CITY OF NEWPORT BEACH

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July 9, 2020

Assemblymember Cottie Petrie-Norris
California State Capitol
Room 4144
Sacramento, CA, 95814

RE: Support for AB 1063 Housing Production Bill

Dear Assemblymember Petrie-Norris,

On behalf of the City of Newport Beach, I am writing to express my support for AB 1063. The bill which will significantly reduce barriers, provided needed flexibility, and streamline the housing element review process, will assist all cities and counties throughout the State of California to more quickly achieve a compliant housing plan to address the State's housing crisis.

The State has taken aggressive steps to promote housing production in the State. Further, in the current health pandemic, it is even more important that cities and counties are given flexibility to realistically allow them to boost housing construction. This bill will take important steps to implement four objectives that will allow local jurisdictions to facilitate housing and help the State meet the Governor's goal to create additional housing units by 2025.

Expand and remove the eligibility barriers for use of the existing *alterative* adequate sites toward RHNA requirements.

Generally, RHNA credit is obtained for potential new construction units, except Government Code 65583.1(c) currently allows local governments to meet up to 25 percent of sites requirements for RHNA by providing affordable units through either: *rehabilitation, conversion, and/or preservation*. However, jurisdictions seldom utilize Section 65583.1 because it includes a number of prohibitive prerequisites making qualification of sites extremely difficult. In fact, the City recently committed \$2 million to a rehabilitation project that converted 12 market-rate rental units in the coastal zone to affordable housing for homeless veterans and seniors. Yet, due to a requirement that the City must have committed funds within the first two (2) years of the planning period, the project was not eligible for RHNA credit.

Use of the “alternate sites” option could prove to be a feasible option to provide a net increase in affordable units in high cost markets and high resource cities such as Newport Beach and other similar highly urbanized coastal communities. Affordable housing developers must compete with luxury housing developers for housing opportunity sites, resulting in the need for substantial land acquisition subsidies to create feasible projects. Given significantly higher land costs, it is more feasible to rehabilitate and convert existing market-rate units for affordable housing than constructing new affordable housing units. Whether the units are new or rehabilitated, providing a net increase of affordable housing units in high resource areas should be encouraged and supported by expanding cities’ and counties’ ability to utilize these more flexible compliance options.

Establishes clear and objective standards of what constitutes “substantial evidence” providing cities and counties more certainty of a site’s eligibility for Housing Element compliance, streamlining the Housing Element review process.

One of the most important aspects of Housing Element law is the requirement that cities demonstrate “adequate sites” with realistic development potential that can accommodate the jurisdiction’s RHNA allocation at each income level (very low, low, moderate and above moderate). Recent amendments to Housing Element law establish additional criteria for underutilized sites to be considered suitable for “RHNA credit.” Under Section 65583.2(g)(2), if a city or county relies upon underutilized sites to provide 50 percent or more of its capacity for lower-income housing, then an existing use shall be presumed an impediment to additional residential development, absent findings based on “substantial evidence” that the use is likely to be discontinued during the planning period. (Emphasis added.) Existing statutes and HCD guidance have not provided clear, objective criteria regarding what constitutes substantial evidence.

For example, current HCD guidance on this issue suggests that cities should consider the status of existing leases and their expiration dates to determine whether substantial evidence exists indicating a site will likely be redeveloped with new housing during the 8-

year Housing Element period. However, cities do not have the legal authority to require property owners to disclose lease terms. Further, current law grants HCD full discretion to determine whether a site is “underutilized” based upon subjective criteria determined by HCD. In many cities with little vacant land, high property values and very few blighted or vacant buildings, the new substantial evidence criteria appear to pose an insurmountable obstacle to achieving Housing Element compliance.

Demonstration of adequate sites and future housing production would be enhanced with clear, objective criteria for the review and certification of Housing Elements by providing guidance to local governments in the selection of appropriate sites to encourage housing development while minimizing local governments’ administrative time and cost. It is appropriate for cities and counties to have a clear path to achieving a certified Housing Element if they are following objective, simple and market-friendly State guidance for implementing reasonable local policies that facilitate housing development. This legislative amendment would contribute substantially to the effectiveness of Housing Elements by providing clear, objective standards to assist cities and counties when identifying underutilized sites to accommodate RHNA goals and facilitate future housing development.

Expand the ability for jurisdictions to count ADUs towards RHNA requirements based on demonstrated capacity and establishing an accepted assumption for estimating ADU production and affordability levels.

In light of recent changes in state law requiring cities to allow up to three (3) units per single-family lot (principal unit, accessory dwelling unit, and a junior accessory dwelling unit) or additional ADUs for multi-family development equal to 25 percent of the total number units in the development, the market potential and zoning capacity for development of ADUs has increased exponentially. Furthermore, relaxed parking and owner-occupancy requirements has eliminated additional barriers to the development of ADUs and increased development capacity in every jurisdiction with residential zoning. Therefore, it is essential that jurisdictions are allowed to utilize the development potential of ADUs towards accommodating their RHNA.

Currently, Government Code Section 65583.1 provides HCD full discretion to determine how ADUs count towards RHNA and includes criteria based on past production. This standard does not consider the development potential introduced by new statutes and may result in cities unable to count the true ADU development potential that new housing laws allow. Revisions to Section 65583.1 are necessary to provide objective standards for HCD to utilize when determining the extent to which future ADUs count towards RHNA site requirements and to establish reasonable assumptions for determining the percentage of ADUs that count towards lower-income requirements.

Provide flexibility for the jurisdictions that have local voter-approval requirements, to submit a draft Housing Element by the October 2021 timeline.

Despite the pandemic and severe revenue losses that are expected, jurisdictions cannot simply ignore the October 2021 Housing Element deadline due to the significant financial consequences jurisdictions face of up to \$600,000 per month for noncompliance pursuant to AB101. This results in 15 short months to engage the public, establish environmental impacts, engage consultants and technical experts to prepare studies and the environmental document, issue public notices, review and respond to public comments and hold public hearings before approving the environmental document and the 6th Cycle Housing Element. Although housing related planning remains a priority, the financial and staff resources needed to undertake the effort needed to meet the large and overly ambitious regional housing needs targets have been and will be significantly hindered. This is a monumental task that the City remains committed to attempt to achieve; however, Newport Beach – like other cities in our area such as Costa Mesa – is subject to voter approval of the 6th Cycle Housing Element in light of initiatives passed by local voters which are codified in the charter and/or municipal code. It is likely that even if Newport Beach is able to prepare a compliant Housing Element by the deadline, the voters may deny the document. The bill would provide some protection against financial penalties to jurisdictions that have attempted to comply with State Housing Element law, but for reasons outside their legal control due to a public vote cannot.

With the impacts of COVID-19 and the continued focus on housing, this bill is a common-sense solution that will help cities facilitate and expedite additional housing supply. For these reasons, I support AB 1063.

Sincerely,



Will O'Neil
Mayor
Newport Beach

cc. Senator John Moorlach
Newport Beach City Council
Grace Leung, City Manager
Seimone Jurjis, Community Development Director
League of California Cities (Via email: cityletters@cacities.org)