



CITY OF NEWPORT BEACH

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Brad Avery

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Will O'Neill

May 10, 2022

The Honorable Miguel Santiago
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0053

RE: AB 1976 (Santiago) – Notice of Opposition

Dear Assembly Member Santiago,

The City of Newport Beach (City) writes to respectfully oppose AB 1976 because it continues to compound penalties for jurisdictions without allowing adequate time to meet already stringent deadlines, as elaborated below.

As written, if a jurisdiction is subject to AB 1398 and must complete the rezoning program identified in its adopted 6th Cycle Housing Element by the required October 2022 deadline, then AB 1976 would grant authority to the State Department of Housing and Community Development (HCD) to complete that jurisdiction's rezoning program for all very low- and lower-income households on its behalf. HCD may alternatively choose to impose administrative civil penalties of up to \$10,000 per day. It is notable that AB 1976 only applies to jurisdictions in the Southern California Association of Governments (SCAG) region. Only 6 of the 197 SCAG member jurisdictions met the statutory deadline to adopt a certifiable 6th Cycle Housing Element, leaving 191 jurisdictions subject to AB 1398 and therefore, possibly subjected to AB 1976, if signed into law.

The City believes it is imperative to understand that preparation of the Newport Beach 6th Cycle Housing Element began over two years ago with a concerted community outreach and engagement effort. With the unprecedentedly high Regional Housing Needs Assessment (RHNA) allocation for the SCAG region and, in turn Newport Beach, it was no simple task identifying appropriate sites to demonstrate housing capacity, especially in a city with overarching constraints such as sea level rise and flood hazard areas, airport restrictions, designated conservation areas, fire hazard zones, seismic hazards, and nearly 40 percent of land area within the Coastal Zone boundary. While the City worked diligently to engage the community and create an updated element for adoption by the October 2021 statutory deadline, the compliance criteria was changed with AB 1398 coming into effect late in the preparation phase. AB 1398 blindsided many jurisdictions and served to move the goal post for compliance. Meanwhile, important HCD guidelines on new and complex 6th Cycle requirements, such as Affirmatively Furthering Fair Housing (AFFH), were not provided until the middle of 2021.

The City understands it is subject to the provisions of AB 1398 and is committed to working expeditiously to carry forward the rezoning program of its adopted 6th Cycle Housing Element. AB 1976 does not address nor consider Cities that are subject to a charter that regulates growth. The City has a charter which requires it to seek the vote of its electorate for any major change to its general plan involving land use. Implementing and incorporating the housing into the City's Land Use Element will require a vote of its electorate. The process to place an initiative on the ballot for a vote is complex, time consuming, and simply cannot be completed prior to the October 15, 2022 deadline. Furthermore, it is noteworthy that implementing land use changes in the Coastal Zone will require oversight and approval from the California Coastal Commission.

HCD is inundated with reviewing complicated Housing Element updates; however, the lack of guidance, lack of accessibility to collaborate and make revisions during initial compliance reviews, and HCD's workload is not something that jurisdictions should be punished for.

Further penalizing SCAG jurisdictions by imposing harsher penalties through forced accelerated rezoning's and steep fines should be carefully considered and weighed against the overall update process and local charters.

For these reasons, the City of Newport Beach opposes AB 1976 (Santiago).

Sincerely,

Kevin Muldoon
Mayor
Newport Beach



cc:

Senator David Min
Assemblywoman Cottie Petrie-Norris
Newport Beach City Council
Grace Leung, City Manager
Seimone Jurjis, Community Development Director
League of California Cities (Via email: cityletters@cacities.org)