

2018-2019

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June 26, 2019

The Honorable David Chiu
Chair, Assembly Committee on Housing and Community Development
1020 N Street, Room 162
Sacramento, CA 95814

RE: SB 592 (Wiener) Housing Accountability Act
Oppose Unless Amended (as amended 6/13/19)

Dear Assembly Member Chiu:

The League of California Cities must respectfully oppose SB 592 unless the measure is amended to address our key concerns. SB 592 would, among other things, greatly expand existing remedies in the Housing Accountability Act (HAA), and apply the HAA to any form of land use decision.

Specifically, the League of California Cities has the following significant concerns with SB 592:

1) Expansion of Housing Accountability Act Remedies

The League strongly opposes the expansion of the already-severe remedies in the Housing Accountability Act. As of January 1, 2018, the HAA requires significant fines (\$10,000 per unit) be imposed for violation of the HAA. Before there has been any opportunity to understand whether those fines are effective enforcement or deterrence, SB 592 would add compensatory damages to the list of remedies; and would apply those fines and compensatory damages to a decision that violates any land use law.

Awarding compensatory damages for a violation of land use laws is unprecedented. Whereas the fines in the HAA are required to be contributed to a fund that builds housing, compensatory damages are awarded to private parties and organizations and fails in any way to guarantee or promote funding for housing.

2) Expansion of Housing Accountability Act to ANY Form of Land Use Decision

The purpose of the Housing Accountability Act is to make sure that a “local government not reject or make infeasible housing development projects, including emergency shelters...without a thorough analysis of the economic, social, and environmental effects of the action...” [Section 65589.5(b)]. To that end, the HAA prevents a city from disapproving [except under limited circumstances] a housing development project if it is consistent with the city’s general plan, zoning, and objective, quantifiable, written development standards, conditions, and policies.

There's no place in the HAA for "any decision that violates any land use law." There's nothing in SB 592 that even indicates to a city how such decisions will be evaluated under the HAA. Yet, fines and compensatory damages could be awarded for an unwitting violation.

3) Expansion of Housing Accountability Act to "Ministerial Projects."

Since the HAA applies to applications for emergency shelters and housing development projects, it is unclear if the author's intent is to apply the HAA to emergency shelters and housing development projects that are approved under a ministerial process (such as SB 35) or as a use by right (such as the housing element law provide under certain circumstances).

4) Changes to Section 65589.6(m) are Unclear.

(m) Irrespective of whether the local agency's action was made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken in any action brought to enforce the provisions of this section and discretion in the determination of facts is vested in an inferior tribunal, corporation, board, or officer. It very difficult to understand these amendments. Additional clarification is needed.

For these reasons, the League of California Cities opposes SB 592 unless it is amended to address the above concerns. If you have any questions, please feel free to contact me at (916) 658-8264.

Sincerely,



Jason Rhine
Assistant Legislative Director

cc. Senator Scott Wiener
Members, Assembly Committee on Housing and Community Development
Lisa Engel, Consultant, Assembly Committee on Housing and Community Development
William Weber, Consultant, Assembly Republican Caucus