

Tri-Valley Cities

DANVILLE • DUBLIN • LIVERMORE • PLEASANTON • SAN RAMON

Date: February 20, 2019
To: Tri-Valley Mayors and City Councils
From: Tri-Valley Cities City Managers
Subject: Tri-Valley Cities Housing and Policy Framework

Background

The Tri-Valley cities of Dublin, Livermore, Pleasanton, San Ramon, and the Town of Danville (collectively known in this document as, “Tri-Valley Cities”) value regional leadership and collaboration to maintain and improve the quality of life for Tri-Valley residents and to create a positive environment for employers. The Tri-Valley Cities recognize the challenge of providing adequate and affordable housing opportunities in the region. Recent efforts at the regional level, through the Committee to House the Bay Area (CASA) and by State legislators have brought these challenges and the resultant policy implications for the Tri-Valley into sharper focus.

Purpose

There is a unique opportunity for the Tri-Valley Cities to work together, to develop a collaborative response to influence legislative efforts at the State towards outcomes that address housing needs, while respecting community character and desire for local control.

Knowing that new housing bills are likely to be introduced by State legislators in 2019 and beyond, the Tri-Valley Cities are collaborating to take a proactive and nuanced approach to advocacy and engagement. Each jurisdiction has its own perspective on how to best meet the needs of their residents and business communities. However, many of our interests overlap, which allows for collaboration and advocacy that will strengthen the voice of the Tri-Valley.

Action and Information

Tri-Valley Cities have developed the Tri-Valley Cities Housing and Policy Framework to provide a comprehensive statement of the Tri-Valley Cities legislative approach in the area of housing. Included within the Framework are a CASA Compact Summary with Recommendations, and SB 50 Overview. In addition, the Tri-Valley Cities has prepared a Housing and Policy Framework Frequently Asked Questions (FAQ) exhibit as well as a Draft Resolution. The Tri-Valley Cities will collectively and individually consider adopting a Resolution in support of the Tri-Valley Cities Housing Paper and Policy Framework.

Attachments:

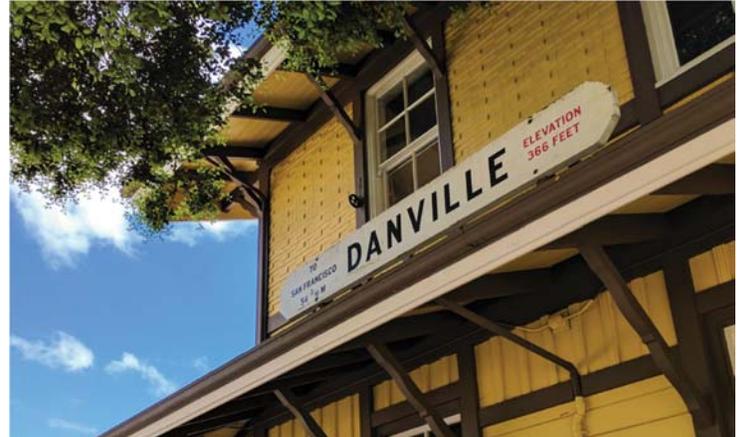
1. Tri-Valley Cities Housing and Policy Framework with Attachments
2. Housing and Policy Framework Frequently Asked Questions
3. Draft Resolution supporting the Tri-Valley Cities Housing and Policy Framework





TRI-VALLEY CITIES

Housing and Policy Framework



February 2019

PREAMBLE

The Tri-Valley cities of Dublin, Livermore, Pleasanton, San Ramon, and the Town of Danville (collectively known in this document as, “Tri-Valley Cities”) value regional leadership and collaboration to maintain and improve the quality of life for Tri-Valley residents and to create a positive environment for employers. The Tri-Valley Cities recognize the challenge of providing adequate and affordable housing opportunities in the region. Recent efforts at the regional level, through the Committee to House the Bay Area (CASA) and by State legislators have brought these challenges and the resultant policy implications for the Tri-Valley into sharper focus. There is a unique opportunity for the Tri-Valley Cities to work together, to develop a collaborative response to influence legislative efforts at the State towards outcomes that address housing needs, while respecting community character and desire for local decision making.

Knowing that scores of new housing bills are likely to be introduced by State legislators in 2019 and beyond, the Tri-Valley Cities recommend a proactive and nuanced approach to advocacy and engagement with the cities working together. In addition to educating our stakeholders on these issues, our goals are to influence the legislative process and create a shared Tri-Valley position on key topics, where possible. While this approach identifies common areas of concern, each city continues to pursue their own individual areas of concern that are context sensitive to their community.

INTRODUCTION

Each jurisdiction has its own perspective on how to best meet the needs of their residents and business communities. However, many of our interests overlap, which allows for collaboration and advocacy that will strengthen the voice of the Tri-Valley. Tri-Valley Cities are committed to open and honest communication with a goal of building consensus and a united approach to address housing legislation as it is developed by State legislators. To that end, the Tri-Valley Cities have adopted a Legislative Framework to help collectively work on legislative issues at the local, regional, state and federal levels. There are seven (7) Focus Areas which guide this education and advocacy work together which are:

1. Public Infrastructure
2. Transportation
3. Housing
4. Local Decision Making
5. Fiscal Sustainability
6. Economic Development
7. Public Safety

The housing challenges in California are real and the current and upcoming legislative cycles will include notable and impactful housing legislation that will be felt statewide, including in the Tri-Valley. Recent history has demonstrated that simply opposing legislation does not work (and in fact, may be counter-productive) and that the Tri-Valley Cities will need to collaborate to influence legislative efforts, including proposing revisions to draft legislation, to address new housing law as it is developed.

BACKGROUND

California's Affordable Housing Crisis & The State's Response

In 2017 the State of California published a report titled, "[California's Housing Future: Challenges and Opportunities](#)." The report identifies the severity of the housing shortage across the state and became a backdrop to the State's adoption of a suite of 15 housing-related laws known as the 2017 "Housing Package". The 15 new laws focus on:

- Providing funding for affordable housing;
- Streamlining the review and approval process for housing;
- Increasing accountability and reporting requirements for local governments; and
- Preserving existing affordable housing.

During the 2017 legislative cycle many communities (including the Tri-Valley Cities) responded to the proposed legislation with an outright rejection of the entire Housing Package. Nonetheless, 15 new bills were signed into law and in 2018 most local jurisdictions began implementation of these measures in various ways. Key pieces of that new legislation are outlined later in this Housing Framework.

HOUSING ELEMENT

Purpose

The Housing Element is one of nine mandated elements in a city's General Plan and implements the declaration of State law that "the availability of housing is a matter of vital statewide importance and the attainment of decent housing and a suitable living environment for all Californians is a priority of the highest order" (Gov. § Code 65580).

At the local level, the Housing Element allows the local jurisdiction to approve a community-specific (local) approach to "how" and "where" housing needs will be addressed to meet the needs of their community. A jurisdiction's Housing Element must be updated every eight years.

For the Bay Area, the current planning period started in 2015 and ends in 2023. The next planning period will run from 2023 to 2031, meaning that local jurisdictions will be updating their Housing Elements in the 2021/2022 timeframe.

Certification and Annual Progress Report (APR)

After local adoption, State law provides the California Department of Housing and Community Development (HCD) with the authority to review and “certify” each jurisdiction’s Housing Element. To ensure ongoing compliance, the law requires local jurisdictions to submit an annual report to HCD, generally referred to as the Annual Progress Report (APR), documenting the number of housing units in various affordability categories that have been produced over the past year and through the course of the eight-year housing element cycle.

Regional Housing Need Allocation (RHNA)

All California cities and counties are required to accommodate their fair share of regional housing need. This fair share assignment is determined through a Regional Housing Needs Allocation (RHNA) process. HCD determines the share of the state’s housing need for each region. In turn, the council of governments (COG) for the region allocates to each local jurisdiction its share of the regional housing need. In the nine-county Bay Area, the region’s COG is the Association of Bay Area Governments (ABAG). After the RHNA is determined, local jurisdictions must update their Housing Element (and typically identify housing opportunity sites and rezone property) to demonstrate that there is an adequate amount of land zoned, at appropriate density, to achieve its RHNA for the current planning period.

Planning vs. Building; No Net Loss

Under current state law, a jurisdiction is not required to *build* these housing units. Rather, it is required to adopt a land use program – appropriate General Plan and Zoning – including identification of specific sites with available infrastructure and suitable physical conditions to accommodate these housing units under market-driven conditions. The “No Net Loss” laws (adopted in 2017 by SB166) ensure that local governments do not approve projects with less units per income category, or downzone these opportunity sites after their Housing Element has been certified. This means that cities cannot approve new housing at significantly lower densities (or at different income categories) than was projected in the Housing Element without making specific findings and identifying other sites that could accommodate these units and affordability levels.

RHNA Cycles & Income Levels

Based on population projections from the California State Department of Finance in the lead-up to the last RHNA, and economic and regional housing market uncertainty (including the Great Recession), HCD required the Bay Area to plan for 187,990 new housing units during the current 2014-2022 RHNA cycle. A RHNA assignment is comprised of four income categories: very low; low; moderate; and above moderate income. Table 1 shows the current combined RHNA for the five Tri-Valley jurisdictions.

Table 1 – Tri-Valley Cities 2014-2022 RHNA and Housing Production

| Income Level | RHNA Allocation by Income Level | 2015 | 2016 | 2017 | Total Units Built to Date | Total Remaining RHNA by Income Level |
|-----------------------|---------------------------------|-------|-------|-------|---------------------------|--------------------------------------|
| Very Low | 3,063 | 80 | 148 | 52 | 280 | 2,783 ¹ |
| Low | 1,701 | 58 | 121 | 36 | 215 | 1,486 ¹ |
| Moderate | 1,734 | 35 | 571 | 36 | 642 | 1,092 |
| Above Moderate | 2,557 | 2,551 | 911 | 1,824 | 5,286 | 0 |
| Total RHNA | 9,055 | 2,724 | 1,751 | 1,948 | 6,423 | 5,361 |

Source: Department of Housing and Community Development (HCD) Annual Progress Reports

Similar to many communities throughout the Bay Area, the Tri-Valley has met its RHNA for above-moderate housing, production of very-low, low- and moderate-income units has been more modest. In fact, most of the low- and very-low income unit production has been generated by inclusionary zoning² requirements, or produced with substantial subsidies from local, state and federal dollars. The production data is indicative of the real challenges faced by local jurisdictions in meeting RHNA for lower income housing in a market-driven environment, where high land and development costs mean substantial subsidy is needed to build each unit, and where local, State and federal funding is inadequate to meet all but a tiny fraction of the need.

RECENT CHANGES TO STATE LAW

The extensive housing legislation passed in 2017 (Housing Package) and supplemented in 2018 reflects the seriousness of the affordable housing crisis for State leaders. The focus has been largely on holding local government accountable (increasing reporting and monitoring), reducing public process (streamlining), and identifying new funding sources.

Of the 15 bills passed in 2017 and the follow-on bills passed in 2018, the following are the most relevant and potentially impactful to Tri-Valley communities:

Streamlined Approval (SB 35): SB 35 requires cities to “streamline” the approval process for housing developments if the jurisdiction has not issued sufficient building permits to satisfy its regional housing need by income category. A project would be

¹ Very low and low income housing is only produced through inclusionary zoning or subsidies through City Low Income Housing Fees (LIHF), Regional/County Bonds, state and federal tax credits, or other subsidized programs.

² Inclusionary Zoning = local zoning code standards that require a portion of a market rate project to be provided (and maintained) at below-market-rate.

eligible for ministerial approval if it complies with objective planning standards, meets specifications such as a residential General Plan designation, does not contain housing occupied by tenants within 10 years, and pays prevailing wages. Additionally, projects must restrict 10 to 50 percent of its units to be affordable to households classified as having low income (i.e., less than 80 percent of the area median income).

Housing Accountability Act (SB 167, AB 678, AB 1515): The bills affecting the Housing Accountability Act apply to every housing development application, not just those with an affordable housing component. The legislation requires that local government provide developers with a list of any inconsistencies between a proposed project and all local plans, zoning, and standards within 30 to 60 days after the application is complete or the project will be deemed complete with all local policies. Additionally, if a housing project complies with all “objective” general plan, zoning, and subdivision standards, it may not be denied or have its density reduced unless a city or county can find that the project would have a specific adverse impact on public health and safety. If a project includes affordable units, a local jurisdiction is responsible for making additional findings to deny the project, reduce its density, or add a condition that makes the project infeasible, even if the project does not comply with all “objective” standards.

No Net Loss (SB 166): State law in place prior to 2017 prohibited cities from downzoning sites or approving projects at less density than identified in their Housing Elements. Under the 2017 modification, if the approval of a development project results in fewer units by income category, the jurisdiction must identify additional sites to accommodate the RHNA obligation lost as a result of the approval and make corresponding findings. This change is significant because, for many cities, the Housing Element will have counted most of the high-density housing sites as producing very-low and low-income units, when actual projects constructed will typically provide only a portion of their units at below-market rates. This means cities will likely need to zone additional land for higher density development to ensure there is an adequate number of sites to meet RHNA, and to make more conservative assumptions about future yield of affordable units on those sites.

Housing Element Requirements (AB 1397): This bill makes many changes to how a jurisdiction establishes its Housing Element site inventory. Of special note, this legislation requires “by-right” approval for projects that offer 20-percent of its units at a rate that is affordable to lower income households.

BART TOD Districts (AB 2923): This bill was passed in 2018 and established minimum local zoning requirements for BART-owned land that is located on contiguous parcels larger than 0.25 acres, within one-half mile of an existing or planned BART station entrance. All cities must adopt conforming standards within two years of BART adopting TOD standards (or by July 1, 2022) that include minimum height, density, parking, and

floor area ratio requirements. In addition, all projects must include a minimum 20 percent of units for very low and low-income households. This bill is anticipated to help facilitate BART's plan to build 20,000 units across its network.

FUTURE LEGISLATION

Local jurisdictions should expect another round of significant housing legislation in 2019 and likely beyond. From this point forward, much of this legislation will likely be informed and influenced by the CASA Compact, which was released in December 2018. The Metropolitan Transportation Commission (MTC) formed CASA, or the Committee to House the Bay Area, to address the affordable housing crisis. CASA is a 21-member steering group comprised of major employers, for-profit and nonprofit housing developers, affordable housing advocates, transportation professionals, charitable foundations and elected officials from large cities. CASA's work product is referred to as the CASA Compact (Compact), an ambitious 10-point plan to remedy the Bay Area's housing issues.

CASA Compact (see [Attachment 1](#))

The CASA Compact sets out to achieve three goals:

- Produce 35,000 housing units per year
(14,000 affordable to low-income and 7,000 to moderate-income, a 60% affordability rate)
- Preserve 30,000 existing affordable units
(26,000 of which are market-rate affordable units and 4,000 are at-risk over the next 5 years)
- Protect 300,000 lower-income households
(those who spend more than 50% of income on their housing)

To achieve these goals, the Compact includes 10 Elements (or actions). Below is a brief summary (see Attachment 1 for a more detailed overview):

Elements 1-3 – Preserve and Protect

Together, these elements represent the “preserve and protect” components of the Compact, including arguments for: just-cause eviction standards; rent caps; and rent assistance and free legal counsel.

Elements 4-8 – Production

Together, these elements are the “production” component of the Compact, with subcategories, including: accessory dwelling units (ADUs); process streamlining and financial incentives; and using public land for affordable housing.

Elements 9-10 – Revenue and Administration

Together, these elements offer revenue generating mechanisms to fund the Compact and suggests the formation of a new independent regional “housing authority” to collect and distribute those funds.

The Compact concludes with “Calls for Action,” which were ideas that garnered sufficient interest from the CASA steering committee, but not enough to become a standalone element in the Compact. Because these will also generate some legislative interest, those topic areas are also briefly discussed here:

- *Redevelopment 2.0*: Pass legislation enabling the re-establishment of redevelopment in California to provide new funding for affordable and mixed income development.
- *Lower the Voter Threshold for Housing Funding Measures*: Pass legislation that would apply a 55% threshold for affordable housing and housing production measures.
- *Fiscalization of Land Use*: Pass legislation that would return e-commerce/internet sales tax revenues to the point of sale - not at the point of distribution as it is currently - to provide cities that have a significant residential base with a commensurate financial incentive to develop new housing. Also, pass legislation that would change the Proposition 13 property tax allocation formula to provide cities that build more housing with a higher share of property tax revenue.
- *Homelessness*: CASA’s funding package includes resources that help produce housing for formerly homeless people and prevent homelessness when possible.
- *Grow and Stabilize the Construction Labor Force*: Increase the construction labor pool by requiring prevailing wages on projects that receive incentives, calling upon the State to improve the construction employment pipeline, and creating a CASA/state labor workgroup to implement.

Concluding Thoughts Regarding CASA

The intent of the CASA Compact is to serve as state legislative research data for future housing legislation. Specifically, its development timeline is driven by the desire to place elements of the Compact on the ballot in the 2020 General Election. While some jurisdictions are likely to support the philosophical principles of the CASA Compact, many have expressed concerns that revolve around three main issues:

- *One-Size-Fits-All Approach*: The Compact proposes one-size solutions that may be effective in large urban cities but can be counterproductive in smaller suburban and rural communities. As an example, rent caps may disincentivize multifamily housing production in suburban communities. In another example, mandating

high density housing near transit lines presumes transit service remain static when in fact that is not the case in suburban communities.

- *Potential to Jobs/Housing Imbalance:* The Compact’s singular focus on housing production throughout the entire region minimizes the fact that the most acute housing pressure is focused in three of the nine counties in the Bay Area (San Francisco, San Mateo and Santa Clara), where most of the jobs are being created. Imposing housing production in far reaches of the Bay Area (such as Napa) would not alleviate the crisis in the three big counties. Instead, it would likely induce significant congestion and exacerbate the jobs/housing imbalance. A more reasonable approach could be to adjust the production requirements based on a county’s existing housing supply.
- *Absence of Public Engagement:* One of the most concerning aspects of the Compact is the absence of a transparent public process that would have incorporated input from those most affected - the general public and cities throughout the region. An often-repeated concern is that this top-down approach is not only ill-informed of the issues highlighted above but could breed anti-growth sentiment that would actively resist reasonable measures to build or fund affordable housing in the future.

See [Attachment 1](#) for a more detailed breakdown of the CASA Compact, local concerns, and recommended approaches for future advocacy work.

PENDING LEGISLATION (2019)

The 2019 legislative cycle in Sacramento will result in numerous housing-related bills. The Tri-Valley Cities will continue to monitor and advocate as appropriate. One bill that has received significant attention at this time is SB 50.

Equitable Communities Incentive (SB 50): SB 50 is an evolution of Senator Wiener’s 2018 proposed bill, SB 827. It is a developer opt-in bill that would require a city or county to grant an “equitable communities incentive,” which is a waiver from maximum controls on density, height, and parking spaces per unit, and up to three concessions (such as deviation from setbacks or other development standards), if the project provides low, very low or extremely low income housing and is located in a “job-rich housing project” or “transit-rich housing project,” as defined below.

“Transit-rich housing project” means a residential development, the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

“Job-rich housing project” means a residential development within an area identified by the Department of Housing and Community Development and the Governor’s Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs.

The League of California Cities Housing, Community and Economic Development Policy Committee (HCED) discussed SB 50 at their January 17, 2019 meeting. HCED took a position to oppose the bill unless amended. Understanding that Senator Weiner is the Chair of the Housing Committee, along with the political make-up of the Senate and Assembly, HCED formed a subcommittee to explore amendments to SB 50 to make it more amenable to cities and will be presented and discussed further at a later time.

A summary of SB 50, which was presented to HCED on January 17, 2019, is attached as [Attachment 2](#).

PROACTIVE APPROACH TO LEGISLATIVE ADVOCACY

Below is a discussion of “key themes” to consider while informing, influencing, and advocating, on the topic of housing.

Key Themes

Balanced Solutions – Housing, Jobs, and Transportation

- Regional solutions need to take a balanced approach that considers housing, transportation/transit, and jobs together. Building housing without adequate transportation infrastructure may exacerbate, not alleviate, the affordable housing crisis.
- Regional transit agencies and MTC must support improved transit services to existing and new neighborhoods and address accompanying funding needs.

Provide, Promote, and Protect Affordability

- Protect existing affordable housing stock, including rental apartments, deed-restricted units, and mobile homes, and promote affordable housing that includes long-term affordability agreements.
- Ensure that all new state mandated incentives, fee reductions, and density bonus program are directly linked to the level and percentage of affordable units provided for each project.

Context-Sensitive Housing

- Avoid “one-size-fits-all” standards for regional housing by ensuring that policies and laws allow for sensitivity to local context. For example, historic districts should be exempt from higher density housing requirements if they are not compatible with the historic context of the area.

- Advocate and facilitate production of ADUs (examples: reduce all fees including those from special districts and utility companies) and encourage development of “missing-middle” housing that is compatible with suburban community character (examples: duplex, triplex and four-plexes, small scale apartment complexes).
- Enable cities to develop locally-appropriate plans that meet State objectives in a manner that is compatible with existing community character. For example, some cities use density-based (rather than height-based) development standards and realistic parking requirements given their distance from reliable and frequent public transit.

Infrastructure and Services

- Mandates for new housing production need to be accompanied by funding that can support expanded transportation, transit, and infrastructure, including planning, and capital improvement programs and funding to support new school facilities.

Funding and Resources

- There should be no net loss of local funding.
- New funding measures should not unduly impact local taxation capacity or divert financial resources from essential local public services and infrastructure programs.
- Any new housing mandates should include funding to offset administrative costs associated with supporting the new program and new reporting requirements. Funding to offset administrative costs could include concepts similar to the surcharge on building permit applications for the Certified Access Specialist (CASP) program.

NEXT STEPS

- Housing and Policy Framework Workshop for Mayors and City Councilmembers
- Develop engagement materials that highlight the narrative regarding key themes
- Work with advocacy firm Townsend Public Affairs to identify and coordinate opportunities for the Tri-Valley Cities to engage with local, regional, and State representatives

ATTACHMENTS

1. CASA Compact Summary & Recommendations
2. SB 50 Overview

| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
|--|--|--|---------------------------------|
| <p>1. Just Cause Eviction Standards: Adopt a Bay Area-wide requirement that landlords must cite specific "just causes" (both fault and no-fault) for an eviction. Landlords are required to cover relocation assistance in all "no-fault" evictions. Exemptions would apply.</p> <p>Objective: Protect tenants from arbitrary evictions.</p> | <p>CONCERN STATUS: Low, there is a potentially significant <i>unfunded mandate</i> if cities are responsible for administering/enforcing measures.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> Disincentivizes property owners, who spend a large portion of total income on housing cost, from making housing available for rent on the open market if they are required to provide relocation assistance. | <p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> Implementation to occur <i>after</i> new regional funding sources are available for administration. Administrative responsibility to be assigned to an existing regional agency (no new regional bureaucracy). Mediation to be required as a part of a person seeking their legal remedies for unfair eviction. Provide exemptions for homeowners with ADUs and owner-occupied duplex and triplex units. | <p>FUNDING AND RESOURCES</p> |

| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
|--|--|--|--|
| <p>2. Rent Cap: Establish a Bay Area-wide emergency rent cap that limits annual rent increases to “reasonable” amount. For an emergency period (defined as 15 years), the annual cap would be no more than CPI+5%. Certain exemptions and banking provisions would apply.</p> <p><i>Objective: Decrease the number of households at risk of displacement and to prevent homelessness.</i></p> | <p>CONCERN STATUS: Low, this element has the potential to be counterproductive to multi-family housing production (rent cap disincentivize investment).</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • <i>Production</i> of housing units because it limits a project’s potential return on a high-risk investment; • <i>Maintenance and improvement</i> of the existing housing stock because property owners would be unable to recoup these investments. • <i>Tenant turn-over</i>, leading to a potential “mis-match” between tenants and rental units, which could lead to a decrease in available housing stock. Once a tenant has secured a rent-controlled apartment, s/he may not choose to move in the future and give up the rent-controlled unit, even if housing needs change. Research information source: https://www.brookings.edu/research/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/ • <i>Rent control was recently defeated at the ballot box.</i> | <p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Uninhibited production of new rental units and incentives for existing rental units to stay rental and not be converted to for-sale units. • Ensure landlords have ability to cover all necessary maintenance and administrative costs. • Allow a reasonable time period for newly constructed rental units not be subject to rent cap and then it can apply. | <p>FUNDING AND RESOURCES PROTECT AFFORDABILITY</p> |
| <p>3. Rent Assistance and Free Legal Counsel: Provide access to free legal counsel and emergency rent assistance for tenants with an urgent, temporary financial gap. Funding, policies and guidelines to be determined (presumably by the new regional housing authority) at a later time.</p> <p><i>Objective: Ensure right to legal counsel; provide funding for emergency/temporary rent gap.</i></p> | <p>CONCERN STATUS: Low, there is a potentially significant <i>unfunded mandate</i> if cities are responsible for administering/enforcing measures.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • Presumes <i>all</i> tenants lack resources to legal counsel while <i>all</i> landlords do not. The inverse could be true and result in abuse of the system on the part of tenants seeking to thwart a lawful eviction. | <p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Implementation to occur <i>after</i> new regional funding sources are available for administration. • Administrative responsibility to be assigned to an existing regional agency (no new regional bureaucracy). • A “means test” (demonstration of need) to be required before receiving free legal assistance. | <p>FUNDING AND RESOURCES</p> |

| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
|---|--|--|----------------------------------|
| <p>4. Remove Regulatory Barriers to Accessory Dwelling Units (ADUs): Extend existing state law to allow ADUs on single family lots and multiple ADUs in existing multi-family buildings with ministerial approval.</p> <p>Forgives code violations in grandfathered ADUs. Impact fees to be based on a square foot basis and only on net new living area >500 SF.</p> <p>Objective: Increase more affordable units, provide income source for cost-burdened homeowners.</p> | <p>CONCERN STATUS: Low, cities have generally supported the production of ADUs by making it simpler, faster and cheaper to build these units.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> This Element indicates a lack of understanding that cities serve as a collection point for many pass-through fees to other public agencies (such as utility connection and school district fees), which represent the majority of all fees imposed on an ADU. For example, in the San Ramon valley, these fees represent 79-percent of the fees incurred by a typical 742 SF ADU. <p>Given their disproportionate percentage of the total fee amount, limitations and reduction should apply to ALL pass-through public agencies.</p> <ul style="list-style-type: none"> Removing energy efficiency requirements is contrary to established State Green House Gas (GHG) reduction goals. Reducing fees across the board without an evaluation of the impacts to public services and infrastructure is contrary to the fiscal sustainability of each city. Code violations should not be forgiven if they pose health and safety concerns. | <p>Full support and expansion of this element by:</p> <ul style="list-style-type: none"> Extending the fee limitation/reduction to <i>all</i> pass-through fees (including utility connection fees and school district fees), provided that the fees remain proportionate to impacts generated. Developing standardized ADU permit plans in a range of sizes, pre-approved at the State level, allowing for minimal local plan check requirements (reduced plan check time offsets fee limitations). Allowing cities to count, by right, ADUs that are “affordable by design” in the RHNA process (examples: count ≤ 550 SF ADU as “Low” and 551-1,000 SF ADU as “Moderate” income units). Advocate for standardized Building Codes for ADUs Ensure existing structures are brought up to Code for legitimate Health and Safety reasons. | <p>CONTEXT-SENSITIVE HOUSING</p> |

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| <p>5. Minimum Zoning Near Transit: Establish state-wide <i>minimum zoning</i> for housing on all residential, commercial and institutional zones to allow ‘missing middle’ housing product types to be:</p> <ul style="list-style-type: none"> • Minimum 36-feet high within 1/2-mile of high quality bus service, defined as a bus stop with 15-min headways (weekday peak) and 30-min headways (weekend) • Minimum 55-feet high (75’ with density bonus) within 1/4-mile of a major transit stop, defined as a rail station or a ferry terminal) <p><i>Housing Overlay on Low-Density Commercial Sites: Make housing an allowable use on large commercially-zoned parcels near job centers with high quality transit.</i></p> <p><i>Tenant Protections: Sites rezoned would be subject to tenant protections, demolition controls and “no net loss” provisions.</i></p> <p><i>Affordable Housing: Required at levels not less than state density bonus law. Projects with 10-20 units should have option to pay in-lieu fee as its affordable housing obligation.</i></p> <p><i>Sensitive Communities: receive an automatic 3-year deferral on implementation while the city develops a context-sensitive plan.</i></p> <p>Objective: Spur development near transit.</p> | <p>CONCERN STATUS: High, as it ignores community context with the potential for significant displacement and land speculation near transit.</p> <p>CONCERNS: This is a one-size-fits-all approach that:</p> <ul style="list-style-type: none"> • <i>Ignores community context</i> – creating potential land use incompatibility issues with tall developments immediately adjacent to low density areas or within historic districts/downtowns. • Generates <i>impacts on local infrastructure</i> (i.e., water, sewer, schools, traffic) while fee limitations proposed in Element 6 limits ability to mitigate those impacts. • Creates <i>land speculation</i> around transit zones, driving up land costs and in turn causing housing development costs to rise. • Requiring minimum <i>height does not create density</i>, as it is possible to build a tall multi-story project with lower density luxury units. • Unaware of the fact that <i>transit service is not static</i> in suburban cities; tying housing requirements to transit routes which may be eliminated due to budget cuts (or lowering demand) is problematic as it introduces density to areas that may not have any transportation. • Unaware of the fact that some commercially zoned properties are purposely zoned as such to serve predominately residential areas; as a State Green House Gas (GHG) reduction goal to lower vehicles miles traveled (VMT). • Does not include frequency thresholds or minimum headways for rail station or ferry terminal definitions. • Creates housing near transit but is unclear about proximity to jobs. | <p>Oppose unless amended as follows:</p> <ul style="list-style-type: none"> • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit and a balanced land use framework. • Focus requirement on density not on height (as the latter does not necessarily result in more units) and allow cities to retain design quality control to facilitate local acceptance. • Establish realistic frequency thresholds to be considered for rail stations, specifically ACE or Amtrak train lines, which have very limited infrequent service. • Apply density increase as a <i>percentage</i> of adjacent land uses (example: 50% increase in density or height) in acknowledgement that not all communities take the same form near transit lines (example: San Francisco vs the Pleasanton/Dublin Area). • Establish increases contingent upon funding a transit agency’s ability to maintain headways for a specified number of years. • Allow a time period for cities to incorporate these requirements into their General Plans and obtain local feedback. • Exempt historic districts/downtowns where high-density housing is not compatible with the historic context of the area. <p>Monitor any legislation regarding the definition and requirements on “low density” commercial areas.</p> <p>Balanced Approach: Pursue and support policies that maintain the delicate balance of jobs, adequate affordable housing, and a robust transportation network to connect new housing to jobs and daily services. Actively discourage policies that favors one of these at the expense of the others.</p> | <p>CONTEXT-SENSITIVE HOUSING BALANCED SOLUTIONS INFRASTRUCTURE AND SERVICES</p> |
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| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
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| <p>6. “Good Government” Reforms to Housing Approval Process: Focused on streamlining the permitting process and how residential impact fees are set and enforced.</p> <ul style="list-style-type: none"> • Streamlining (zoning compliant projects <500 units): Includes “locking” rules, fees and historic status at the date of the “application completeness”; permits no more than 3 de novo hearings for each project. • Impact Fees: Impose a state standard for establishing and imposing impact fees using objective standards rather than current “reasonableness” test. Allow for fee deferral (pay some fees at a later point in the development process). • Inclusionary Zoning: Establish state law that precludes inclusionary programs from being ‘additive’ (density bonus, housing impact fees, local inclusionary requirements). Requires in-lieu fees to be an option for fulfilling inclusion (i.e., ability to ‘buy’ out of providing onsite affordable housing). • Downzoning and Moratoria: State to set criteria for when these can be used locally. • Annual ‘Impositions’ Report: Recommends cities annually document any impositions (undefined) that would increase the hard cost (excludes labor and materials) of housing construction (such as fees and inclusionary zoning requirements). <p>Objective: Remove ‘regulatory uncertainty’ perceived to be a major cause of economically infeasible projects.</p> | <p>CONCERN STATUS: High. This has the potential to significantly reduce public input in the review process which may lead to distrust and community concern.</p> <p>CONCERNS: This is a one-size-fits-all approach that:</p> <ul style="list-style-type: none"> • Disincentivizes developers to collaborate on delivering projects that best meet community needs (such as mitigating traffic and infrastructure impacts, offering community amenities). • Significantly reduces the ability to provide public input and the ability to satisfy the public concerns. Reducing public interest may lead to distrust. • Potentially eliminates ability to negotiate community benefits (services and infrastructure to support those who would occupy the housing) as a part of the development process. • Sends a mixed message regarding inclusionary housing, which has been the greatest single contributor to affordable housing in the Tri-Valley. Elements of the Compact require inclusionary housing, while this element alleviates the inclusionary requirement for developers. • As written, this Element severely limits a city’s ability to use good design and planning techniques to integrate new affordable housing into the fabric of a community, which will likely result in further community resistance to affordable housing development. | <p>Oppose unless amended as follows:</p> <ul style="list-style-type: none"> • Require an “expiration date” for all fees and regulations locked at application completeness to ensure they are applicable to viable projects. Eliminates abuse by developers who might “lock” a future application to avoid addressing future federal, state or local requirements that may surface. • Require a “reset” should substantive project changes be introduced during the course of the development review process to avoid potential abuse of the system. • Maintain clear and objective standards and controls, and support fee deferral programs that ensure context sensitivity. • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit. <p>Monitor any legislation regarding the definition and requirements related to an “impositions report.”</p> | <p>FUNDING AND RESOURCES</p> <p>CONTEXT-SENSITIVE HOUSING</p> |

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| <p>7. Expedited Approvals and Financial Incentives: Another permit streamlining effort to accelerate approvals of zoning-compliant projects and enable on-site affordability with financial incentives.</p> <p><i>Streamlining: Applies to zoning compliant projects that restrict at least 20% of onsite housing units to middle-income households, defined as 80-150% of area median income (AMI). Projects granted a statutory CEQA exemption and limited discretionary review.</i></p> <p><i>Financial Incentives include 15-year property tax increment abatement, cap on impact fees, parking standards reduced to 50% of local requirement. Projects to pay prevailing wage.</i></p> <p><i>Sensitive Communities: receive an automatic 3-year deferral on implementation while the city develops a context-sensitive plan.</i></p> <p><i>Objective: Build more moderate income housing units.</i></p> | <p>CONCERN STATUS: High. Much of the Tri-Valley has limited developable lands remaining. However, the remaining new and infill developments generate impacts that rely on fees to mitigate. There should be no net loss of local funding.</p> <p>CONCERNS: This one-size-fits-all approach generates many of the same concerns as described in Element #6. Additionally:</p> <ul style="list-style-type: none"> • Potential to reduce property tax allocations for each City. • Caps on impact fees to a “reasonable” level is currently undefined. • Further caps on impact fees would eliminate funding sources to provide services and infrastructure (example: school, transit, etc.). • Requirement to pay prevailing wage is inconsistent with the overall goal to lower housing construction costs. • Reducing tax allocations given to each city without an evaluation that the impacts generated continue to be covered is contrary to the fiscal sustainability of each city. | <p>Oppose unless amended as follows:</p> <ul style="list-style-type: none"> • There should be no net loss of local funding. • Require outside agencies to cap/reduce fees to stimulate affordable housing. • Require an “expiration date” for all fees and regulations locked at application completeness to ensure they are applicable to viable projects. Eliminates abuse by developers who might “lock” a future application to avoid addressing future federal, state or local requirements that may surface. • Require a “reset” should substantive project changes be introduced during the course of the development review process to avoid potential abuse of the system. • Implement and maintain clear and objective standards and controls to ensure context sensitivity. • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit. • Consider middle income household definition of 80-120% of area median income, consistent with local standards (instead of 80-150% of AMI), which makes units more affordable. • 50% parking reduction from local standards should initially be applied only in transit rich areas where residents actually have to option to use frequent and high quality public transit. • Projects should be required to agree to a 30-50 year inclusionary requirement to receive the streamlining and financial incentives listed. | <p>FUNDING AND RESOURCES</p> <p>CONTEXT-SENSITIVE HOUSING</p> |
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| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
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| <p>8. Unlock Public Lands for Affordable Housing: Promote use of “surplus” and “underutilized” public lands (undefined) for affordable housing through legislative and regulatory changes.</p> <p>This would also create a database listing all publicly owned land in the Bay Area, limit approval process to no more than two years, and deploy 10 percent of underutilized/surplus public land to affordable housing development on an annual basis.</p> <p>Element also calls for policies to help expand the housing construction labor pool, including requiring trained apprentices and prevailing wages. Exceptions would apply to temporary housing built to address an emergency.</p> <p>Objective: Encourage re-use of public land for mixed income/affordable housing units.</p> | <p>CONCERN STATUS: High. The Tri-Valley has varying amounts of public land between cities. However, the remaining public lands should include context sensitive community plans for each city.</p> <p>CONCERNS: This is a one-size-fits-all approach that:</p> <ul style="list-style-type: none"> • Ignores community context – creating potential land use incompatibility issues with tall developments immediately adjacent to low density areas or within historic districts/downtowns. • Ignores the fact that not all public lands have the same value for affordable housing development, as some large tracts of public land are located at the urban fringe, away from transit and is inappropriate for housing development that leads to sprawl. • Ignores the fact that ability to deploy land is driven by market forces, which cities do not control. • Disregards the efforts underway by local communities to plan vacant lands around transit in a context-sensitive manner. • Limits a city’s ability to use good design and planning techniques to integrate new affordable housing into the fabric of a community, which will likely result in further community resistance to affordable housing development. • Lacks a definition for surplus and underutilized land and how this proposal relates to the exiting Surplus Land Act requirement to offer surplus land to affordable housing developers and other public agencies. | <p>Support with amendments as follows:</p> <ul style="list-style-type: none"> • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit. • Provide clear and objective standards for the definition of “surplus land.” • Should prioritize land around existing or approved transit stops • Require projects to be consistent with locally adopted land use plans that are already in place (e.g. specific plans) and consistent with objective local standards. <p>Monitor any developing legislation regarding the definition of “surplus/underutilized” lands. As appropriate, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Cities to partner with the public entity which owns the surplus land to ensure projects are developed in a manner consistent with local plans and design standards. | <p>CONTEXT-SENSITIVE HOUSING</p> <p>BALANCED SOLUTIONS</p> |

| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
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| <p>9. Funding and Financing the CASA Compact: Raise \$1.5 billion new revenue annually from broad range of sources including (but not limited to) property taxes, 1/4-cent sales tax, head tax, and General Obligation Bonds (reissued every 5 years). Of the total \$1.5 billion, \$300 million would come from local communities (former RDA set aside and future tax increment).</p> <p>New revenue allocation formula:</p> <ul style="list-style-type: none"> - Up to 10% for local jurisdiction incentives - Remainder to tenant protection, preservation, housing subsidies <p>New revenue distribution formula:</p> <ul style="list-style-type: none"> - 75% to county of origin (“return to source”) - 25% to regional program (“revenue sharing”) <p>Revenue collection and disbursement would be managed by a new regional housing authority (described in Element 10).</p> <p>Objective: Fund elements of the Compact that requires public subsidy (e.g., rental assistance, free legal counsel, financial incentives, etc.).</p> | <p>CONCERN STATUS: High. Though not included in the Compact, the Governor has already suggested withholding SB1 funds from cities that do not meet their RHNA assignment. Most cities do not meet the RHNA assignment for at least low and very low units, mostly because such affordability requires significant local subsidies to even get built – the private market simply won’t build these units on its own.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • No “return to source” formula at the city-level, resulting in a greater perception of some communities being “donor communities” without having resources to meet its assigned housing obligation. • Vacant property tax could be punitive to small property owners, particularly if vacancy is beyond their control. Potential <i>unfunded mandate</i> if responsibility for enforcement falls upon local cities. • Commercial fees/taxes may be counterproductive if it drives employers out of the region and suppresses business retention. • The property tax “set aside” is punitive to those cities whose tax base is largely from property taxes. • Wide range of new taxes and fees may limit a city’s taxing capacity (limit its voters’ appetite to pass local funding measures). | <p>Oppose unless amended to eliminate any reduction in current property tax or transportation funding to cities and amended as follows:</p> <ul style="list-style-type: none"> • Defined return-to-source funding formula at a city level. • Regional “fair share” housing assignment (RHNA process) is correlated to level of funding received (i.e., the less regional funding a city receives, the lower the regional housing assignment) (e.g., we do not want to be donor cities). <p>Support for the following funding sources:</p> <ul style="list-style-type: none"> • Statewide voter-approved sales tax or General Obligation bonds for affordable housing to pay for housing initiative. | <p>FUNDING AND RESOURCES</p> |

| SUMMARY OF CASA ELEMENT | CONCERNS AND CONSIDERATIONS | RECOMMENDED APPROACH | TVC POLICY FRAMEWORK KEY THEMES |
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| <p>10. Regional Housing Enterprise (RHE): Establishes a new independent regional housing agency - formed through state legislation - to implement the Compact. It would have the authority to collect and distribute revenue, issue debt, buy/lease/hold land, and track/report on local progress. No regulatory or enforcement powers.</p> <p>Composition: independent board with representation from MTC, ABAG, and stakeholder groups that created the Compact.</p> <p>Objective: <i>Administers the Compact.</i></p> | <p>CONCERN STATUS: High. The Tri-Valley does not support creating an unrepresentative layer of oversight.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • Creating an entity that is not comprised of elected officials does not allow it to be accountable to the voters or local needs, and appears to be structured to exclude local government input. • Creating a regional entity introduces another bureaucracy with its own unique set of requirements takes staff time away from facilitating housing production and committing it to report production (in addition to the ones filed with State HCD and Department of Finance). • Creates taxation without representation. • Existing agencies that could do the same functions, with additional funding, are not being considered instead of a new public agency. | <p>Oppose because it is not representative of each city and includes taxation without representation.</p> | <p>FUNDING AND RESOURCES</p> |

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT
Legislative Agenda
January 17, 2019

1. SB 50 (Wiener) More HOMES Act (Housing, Opportunity, Mobility, and Stability)

Bill Summary:

SB 50 (Wiener) is a developer opt-in bill that would exempt specified housing projects from locally adopted parking requirements, density limits, height maximums limits less than 55 feet, and floor area ratio (FAR) maximums less than 3.25.

Bill Description:

Key Definitions

“Affordable” means available at affordable rent or affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate incomes, as specified in context, and subject to a recorded affordability restriction for at least 55 years.

“High-quality bus corridor” means a corridor with fixed route bus service that meets all of the following criteria:

- It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.
- It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through Friday.
- It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

“Job-rich housing project” means a residential development within an area identified by the Department of Housing and Community Development and the Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs. A residential development shall be deemed to be within an area designated as job-rich if both of the following apply:

- All parcels within the project have no more than 25 percent of their area outside of the job-rich area.
- No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the job-rich area.

“Transit-rich housing project” means a residential development the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor. A project shall be deemed to be within a one-half

mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor if both of the following apply:

- All parcels within the project have no more than 25 percent of their area outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.
- No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

“Local government” means a city, including a charter city, a county, or a city and county.

“Major transit stop” means a site containing an existing rail transit station or a ferry terminal served by either bus or rail transit service.

“Residential development” means a project with at least two-thirds of the square footage of the development designated for residential use.

“Sensitive community” means an area identified by the Department of Housing and Community Development, in consultation with local community-based organizations in each region, as an area vulnerable to displacement pressures, based on indicators such as percentage of tenant households living at, or under, the poverty line relative to the region.

Specifically, SB 50 (Wiener) is a developer opt-in bill that would require a city, county, or city and county to grant an equitable communities incentive to eligible development proponents. In order to be eligible for an equitable communities incentive, a residential development shall meet all of the following criteria:

- The residential development is either a job-rich housing project or transit-rich housing project.
- The residential development is located on a site that, at the time of application, is zoned to allow housing as an underlying use in the zone, including, but not limited to, a residential, mixed-use, or commercial zone, as defined and allowed by the local government.
- The residential development must comply with a locally adopted inclusionary housing ordinance, if it requires more than 20% for low-income and 11% for very low-income households.
- States that it is the intent of the Legislature to require that any development of _____ or more residential units receiving an equitable communities incentive include housing affordable to low, very low or extremely low income households, which, for projects with low or very low income units, are no less than the number of onsite units affordable to low or very low income households that would be required pursuant to subdivision (f) of Section 65915 for a development receiving a density bonus of 35 percent (20% for low-income and 11% for very low-income households.)
- The site does not contain, or has not contained, either of the following:

- Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the application for a development permit.
- A parcel or parcels on which an owner of residential real property has exercised his or her rights under the Ellis Act, Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years prior to the date that the development proponent submits an application.
- The residential development complies with all applicable labor, construction employment, and wage standards otherwise required by law and any other generally applicable requirement regarding the approval of a development project, including, but not limited to, the local government’s conditional use or other discretionary permit approval process, the California Environmental Quality Act, or a streamlined approval process that includes labor protections.
- The residential development complies with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements.
- The equitable communities incentive shall not be used to undermine the economic feasibility of delivering low-income housing under the state density bonus program or a local implementation of the state density bonus program, or any locally adopted program that puts conditions on new development applications on the basis of receiving a zone change or general plan amendment in exchange for benefits such as increased affordable housing, local hire, or payment of prevailing wages.

A residential development that meets the criteria specified above shall receive, upon request, an equitable communities incentive as follows:

- “Job-rich housing project” shall receive the following:
 - A waiver from maximum controls on density.
 - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.
 - Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- “Transit-rich housing project” shall receive the following:

A residential development within one-quarter mile radius of a stop on a high-quality bus corridor:

 - A waiver from maximum controls on density.
 - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.

- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

A residential development that is located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop and includes no less than ____ percent affordable housing units shall receive an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- A waiver from maximum height requirements less than 45 feet.
- A waiver from maximum FAR requirements less than 2.5.
- A waiver from maximum automobile parking requirement.

A residential development that is located within a one-quarter mile radius of a major transit stop and includes no less than ____ percent affordable housing units shall receive an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- A waiver from maximum height requirements less than 55 feet.
- A waiver from maximum FAR requirements less than 3.25.
- A waiver from any maximum automobile parking requirement.

Notwithstanding any other law, for purposes of calculating any additional incentive or concession in accordance with Section 65915, the number of units in the residential development after applying the equitable communities incentive received pursuant to this chapter shall be used as the base density for calculating the incentive or concession under that section (Density Bonus law).

An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 (SB 35 streamlining) may submit an application for streamlined, ministerial approval in accordance with that section.

A local government may modify or expand the terms of an equitable communities incentive provided that the equitable communities incentive is consistent with, and meets the minimum standards specified in, this chapter.

It is the intent of the Legislature that, absent exceptional circumstances, actions taken by a local legislative body that increase residential density not undermine the equitable communities incentive program.

“Sensitive community” delayed implementation - It is the intent of the Legislature that implementation of SB 50 be delayed in sensitive communities until July 1, 2020.

It is further the intent of the Legislature to enact legislation that does all of the following:

- Between January 1, 2020, and _____, allows a local government, in lieu of the requirements of this chapter, to opt for a community-led planning process aimed toward increasing residential density and multifamily housing choices near transit stops.
- Encourages sensitive communities to opt for a community-led planning process at the neighborhood level to develop zoning and other policies that encourage multifamily housing development at a range of income levels to meet unmet needs, protect vulnerable residents from displacement, and address other locally identified priorities.
- Sets minimum performance standards for community plans, such as minimum overall residential development capacity and the minimum affordability standards set forth.
- Automatically applies the provisions of this chapter on January 1, 2025, to sensitive communities that do not have adopted community plans that meet the minimum standards whether those plans were adopted prior to or after enactment.

Fiscal Impact:

No direct fiscal impact to cities.

Existing League Policy:

Zoning

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and

hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

Comments:

What is a “job-rich housing project?”

SB 50 fails to define “job-rich housing project.” As currently drafted, HCD and OPR are tasked with making the determination. Without this definition it is impossible to determine the full scope of communities that may be impacted by this measure. Additionally, SB 50 waives maximum density controls and reduces parking to a maximum of .5 parking spots per unit, even though the community may not have access to public transit. This is inconsistent with the desire to add density near major transit stops.

What is a “sensitive community?”

Much like a “job-rich housing project”, “sensitive community” is not defined. As drafted, HCD and OPR, in consultation with local community-based organizations from the region, are tasked with determining these communities. It should be noted that local governments are excluded from the consultation process.

When does CEQA apply?

SB 50 clearly states that residential projects seeking an equitable communities incentive shall comply with CEQA. However, it is unclear if CEQA will be conducted before or after the incentive is applied. It would be most appropriate to undergo the environmental review process after the incentive has been applied so that the entire project can be considered.

Can a city establish height limitations for “job-rich housing projects” or “transit-rich housing projects” within one-quarter mile of a stop on a high-quality bus corridor?

It is unclear if a city can establish height limitations in these areas. Eligible projects receive up to three incentives and concessions pursuant to Density Bonus law. One possible concession is an exemption from local height limitations. This will need to be clarified.

Mayors in support of SB 50?

It is important to note that several Mayor’s are supporting SB 50. Below are their quotes from Senator Wiener’s press release.

San Francisco Mayor London Breed:

“San Francisco, along with the entire Bay Area, needs to create more housing if we are going to address the out of control housing costs that are causing displacement and hurting the diversity of our communities. I have seen too many people I grew up with pushed out of San Francisco because we have not built enough housing, especially affordable housing, throughout our entire City. I look forward to working with Senator Wiener and others to make sure SB 50 creates more housing opportunities near transit, while maintaining strong renter protections and demolition restrictions so we are

focusing development on empty lots and underutilized commercial spaces. I want to thank Senator Wiener for his continued leadership in pushing for more housing throughout California.”

Oakland Mayor Libby Shaaf:

“The Bay Area must address our shared housing crisis with bold solutions and this bill is an important step toward inclusive communities where everyone has access to stable housing. I appreciate that Sen. Weiner has included key elements of the CASA process – an 18-month effort by Bay Area government officials and stakeholders to create new regional housing strategies – and I am committed to working with the state legislature to implement these solutions.”

Sacramento Mayor Darrell Steinberg:

“I strongly support the concepts outlined in SB 50 because cities throughout California are in the midst of a housing affordability crisis and we need tools that allow us to meet our housing demands. Recent state reports demonstrate cities are falling well short of the housing, climate and sustainable transit goals California committed to in SB 375, legislation I authored in 2008. Senator Weiner’s legislation provides a vital tool for local governments to meet those goals.”

Emeryville Mayor John Bauters:

"Every city in California has to do its part to solve the housing crisis, and I'm proud to stand with fellow housing champions in support of the More HOMES Act. In addition to the incredible burden on our workers, the housing crisis is now fueling the climate crisis by forcing people into long commutes. We should build much more housing near transit, and I'm excited to support this effort to do so."

Support-Opposition: (as of 12/4/18)

Support

San Francisco Mayor London Breed, Oakland Mayor Libby Schaaf, Sacramento Mayor Darrell Steinberg, Emeryville Mayor John Bauters, and El Cerrito Mayor Gabriel Quinto, Non-Profit Housing Association of Northern California (NPH), California Apartment Association,

Opposition:

City of Pasadena

Staff Recommendation:

Staff recommends the committee discuss SB 50 and determine a position.

Committee Recommendation:



Housing and Policy Framework Frequently Asked Questions



February 2019

**TRI-VALLEY CITIES
HOUSING PAPER AND POLICY FRAMEWORK
FREQUENTLY ASKED QUESTIONS**

How is Affordable Housing Developed

1. What is a Housing Element, who approves it and when does it get updated?

The Housing Element is one of nine mandated elements in a city's General Plan and implements the declaration of State law that "the availability of housing is a matter of vital statewide importance and the attainment of decent housing and a suitable living environment for all Californians is a priority of the highest order" (Gov. § Code 65580)

Among other things, a Housing Element allows each community to take a local approach to identifying "how" and "where" their fair share of the region's housing needs should be accommodated. A community's Housing Element must be updated every eight years to demonstrate that an adequate amount of land (called "opportunity sites") is available to accommodate its fair share housing assignment.

The current Housing Element planning period is from 2015 to 2023. During the next update to the Housing Element, each city will likely need to identify new "opportunity sites" to meet future housing assignments. This update could begin in 2021 or 2022, and will require review and approval by each city's elected council through a public hearing process that allows for community input.

2. What is a community's "fair share" housing assignment and how is it calculated?

All California cities and counties are required to accommodate their "fair share" of its region's housing needs through a Regional Housing Need Allocation (RHNA) process. The "RHNA assignment" is comprised of four income categories: *very low*, *low*, *moderate*; and *above moderate*-income housing units.

At the state level, based on population projections, the Department of Housing and Community Development (HCD) determines each region's share of the state's housing need. In turn, each region's council of governments (COG) allocates the regional share among its member cities and counties. The San Francisco Bay Area region's COG is the Association of Bay Area Governments (ABAG).

Each city or county must demonstrate how they can accommodate their fair share RHNA assignment in its Housing Element. RHNA assignments are made approximately every eight years and are based on a formula that factors in the size of the community, its potential for housing and job growth, infrastructure and environmental constraints, and availability of public transit.

The RHNA process is not new and has been in effect since the early 1980s.

3. What is the relationship between multi-family housing and “affordable/low income” housing? Will these sites be developed with low income housing?

The RNHA process attempts to encourage development of housing at all income levels, with a focus on affordable housing. There is a presumed correlation between density (i.e. the number of housing units per acre) and affordability (i.e., housing built to higher densities is affordable to a greater segment of the population). However, it should be noted that RHNA process does not establish rental rates or sales prices. Ultimately, the type of housing built on these sites will depend on the housing market and local economy.

4. What is affordable or below market rate housing; and what are the definitions of *very low, low, moderate and above moderate* income?

This is housing that is offered at a price lower than the market rate. This is usually possible because of government subsidies and other programs that help lower the price or rent of housing. Affordable housing is usually limited to individuals and families that fit into a specific income category (ranging anywhere from less than 30% of area median income to 120% of area median income).

Below is an example of the maximum income limits that were used by all cities including Dublin, Livermore, and Pleasanton in Alameda County in 2018 for a family of four to qualify to buy an affordable home:

- Very Low: 50% of Area Median Income (AMI) or \$58,100
- Low: 80% of AMI or \$89,600
- Moderate: 120% of AMI or \$125,300
- Above Moderate: Anything above 120% AMI

5. Does the State require cities and counties to produce housing units?

Under current State law, a jurisdiction is *not* required to build these housing units. Rather, it is required to ensure that there are lands available (called “opportunity sites”) that have the appropriate General Plan and Zoning designation to accommodate these housing units under market-driven conditions.

6. Where will this housing be located and does all affordable housing have to be higher density rental housing?

Currently, the location of the housing is at the community’s discretion, but some of the current and pending state laws aim to facilitate higher density housing near fixed rail stations (e.g. BART and ACE Stations), high frequency bus routes, or in “jobs rich” areas. The density of the housing can vary depending on its location and local land use policies. Affordable housing can be either for-sale or rental housing. It is the goal of local jurisdictions to meet state and regional mandates in a manner that is compatible with its community character.

7. What is the State doing about the housing shortage?

In 2017, as a response to the statewide housing shortfall, State legislators crafted 15 new housing bills known as the “2017 Housing Package.” Collectively, the focus of these bills has been focused largely on holding local governments accountable (increased reporting and monitoring), reducing public process (permit streamlining), and identifying new funding sources. Despite the outright objection of many communities, the bills became law in late 2017.

8. How do State housing laws affect cities?

Cities are required by State law to ensure that sufficient lands are available to accommodate their “fair share” of housing units. This means that there must be a sufficient amount of land that is designated for all housing types.

As a part of the required Housing Element update, cities must determine whether enough land is available to accommodate its RHNA assignment. If not, then the city is required to designate new “opportunity sites” for this purpose – usually through amending the General Plan and Zoning designation to allow for multifamily housing development.

Under current state law, cities are not required to build housing units. Housing construction is still driven by the private market. Instead, a city’s obligation is to allow these units to be built (through General Plan and Zoning designations). Generally, new housing projects are still required to go through local land use entitlement review and public hearings. New legislation, in some cases, proposes to streamline this review process.

9. What happens if a city doesn’t comply with State housing laws?

Non-compliance could have a number of immediate impacts. First, any RHNA assignment that is not accommodated in one housing cycle will likely be rolled over to the next, increasing the amount of units, and potential land a city is required to designate for multi-family housing during the next cycle. Second, a city would become vulnerable to lawsuits for non-compliance. Third, a city would risk loss of significant transportation funding and become ineligible for a number of state and federal grants.

If sued for non-compliance, a city’s ability to regulate and influence the design and planning of future multifamily housing proposals could be compromised, further diminishing local decision making over what gets built in the future.

10. What is CASA and the CASA Compact?

In July 2017, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) convened the *Committee to House the Bay Area*,

also known as CASA. CASA was charged with developing a “bold plan” to tackle the Bay Area’s housing challenges.

In December 2018, CASA released the “*CASA Compact: A 15-Year Emergency Policy Package to Confront the Housing Crisis in the San Francisco Bay Area.*” The CASA Compact (“Compact”) is a wide-ranging 10-point plan that sets out to achieve three overarching goals for the Bay Area:

- *Produce* 35,000 housing units per year
- *Preserve* 30,000 affordable units
- *Protect* 300,000 lower-income households

The Compact is comprised of 10 “elements” intended as a package of actions to be implemented in its entirety. These elements include tenant protections, housing production mandates, diversion of local community funds and new taxes, as well as the creation of a new regional authority to implement these ideas.

Representatives on CASA include major employers (Google, Facebook, Genentech), for-profit and non-profit housing developers, housing advocates, charitable foundations and elected officials from large cities and counties.

Details about the CASA Compact can be found at MTC’s website:

<https://mtc.ca.gov/our-work/plans-projects/casa-committee-house-bay-area/about>

11. How or why was CASA created and will it become State law?

CASA was created as a response to the statewide housing concerns, described in a report published in 2017 by the State of California titled, “*California’s Housing Future: Challenges and Opportunities.*” However, much of the CASA analysis and recommendations are focused on the San Francisco Bay Area.

CASA is not an actual legislative bill. However, it is recommended to be used as the framework for another round of state legislation in 2019, aimed at further expanding housing mandates at the expense of local government control.

12. What are the Tri-Valley Cities doing to influence pending state legislation?

With over 100 housing bills likely to be introduced by State legislators in 2019, the Tri-Valley Cities (Danville, Dublin, Livermore, Pleasanton and San Ramon) are working together on a proactive and nuanced approach to advocacy and engagement. In addition to educating the public and stakeholders on these issues, the Tri-Valley Cities’ goals are to influence the legislative process and create a shared Tri-Valley position on key topics. The Tri-Valley Cities have prepared a “Housing Paper and Policy Framework” which will guide our efforts. While this approach provides common areas of concern, each city continues to pursue their own individual areas of concern that are unique to their needs.

RESOLUTION NO. _____

**RESOLUTION OF THE [_____] CITY/TOWN COUNCIL
SUPPORTING THE TRI-VALLEY CITIES HOUSING AND POLICY
FRAMEWORK AS A SUPPLEMENT TO THE TRI-VALLEY CITIES
LEGISLATIVE FRAMEWORK ON HOUSING MATTERS**

WHEREAS, in 2017 the Tri-Valley cities of Dublin, Livermore, Pleasanton, and San Ramon and the Town of Danville (collectively known as the “Tri-Valley Cities”) acknowledge the importance of collaborating on a legislative advocacy framework, which resulted in the development of the Tri-Valley Cities Legislative Framework; and

WHEREAS, the Tri-Valley Cities recognize and respect the local needs and character of each community, and have a shared interest in maintaining local control of decision-making related to all aspects of the management of each jurisdiction, including but not limited to financial, land use and development, and growth-related matters; and

WHEREAS, in January of 2017, the State of California published a report titled “California’s Housing Future: Opportunities and Challenges,” which documented the negative consequences of the historic underproduction of housing in California, including an increasing affordability gap, falling rates of homeownership, disproportionate rates of homelessness, and issues such as urban sprawl and traffic congestion. Collectively, these issues have been identified by legislators as part of a statewide “housing crisis”; and

WHEREAS, in September of 2017, California Governor Jerry Brown signed into law the “Housing Package” consisting of 15 new bills focused on funding, permit streamlining, and increased enforcement and accountability for local governments with respect to implementation of the Housing Element; and

WHEREAS, in 2018, State legislators approved, and the Governor signed into law several additional housing bills; and

WHEREAS, the Metropolitan Transportation Commission formed the Committee to House the Bay Area (CASA) to address the housing challenges in the Bay Area; and

WHEREAS, in December 2018 the Committee to House the Bay Area released an ambitious 10-point plan, known as the CASA Compact, to serve as state legislative research data for future housing legislation; and

WHEREAS, the State’s focus on the affordable housing challenges is likely to continue for the foreseeable future with new legislation that will impact local jurisdictions; and

WHEREAS, the Tri-Valley Cities recognize the substantial challenge of providing adequate and affordable housing opportunities in the region, and the shared responsibility of all communities across the State to help address these needs; and

WHEREAS, there is a unique opportunity for the Tri-Valley Cities to work together, to develop a collaborative response to influence legislative efforts at the State towards outcomes that address housing needs, while respecting community character and desire for local control of decision making; and

WHEREAS, the Tri-Valley Cities affirm their interest in and commitment to shaping housing policy outcomes in a constructive manner, through a proactive and nuanced approach to advocacy and engagement on the topic of housing that will result in better outcomes for the region and the individual communities; and

WHEREAS, the Tri-Valley Cities have developed the Tri-Valley Cities Housing and Policy Framework to provide additional depth to the Tri-Valley Cities Legislative Framework in the area of housing; and

WHEREAS, the Tri-Valley Cities Housing and Policy Framework provides a comprehensive statement of the Tri-Valley cities legislative approach, reflecting the following Key Themes:

- Balanced Solutions – Housing, Jobs, and Transportation;
- Provide, Promote, and Protect Affordability;
- Context Sensitive Housing;
- Infrastructure and Services; and
- Funding and Resources; and

WHEREAS, the Key Themes are topic areas where there is consensus among the Tri-Valley Cities, and which can be used to inform, influence, respond, and advocate, on the topic of housing at the local, regional and State level; and

WHEREAS, the overall approach identifies and addresses common areas of concern, while recognizing that each city can and will continue to pursue individual areas of interest that are specific to their community's needs; and

WHEREAS, on February 27, 2019, the Tri-Valley Mayors and Councilmembers met to discuss the Tri-Valley Cities Housing and Policy Framework; and

WHEREAS, the _____ City/Town Council met on _____, 2019 to consider and discuss the Tri-Valley Cities Housing and Policy Framework;

NOW, THEREFORE BE IT RESOLVED THAT THE _____ CITY/TOWN COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER THE FOLLOWING:

Section 1. The Tri-Valley Cities Housing and Policy Framework is hereby supported as supplemental material to the existing Tri-Valley Cities Legislative Framework on matters related to housing legislation.

Section 2. The Tri-Valley Cities may from time-to-time revisit the Tri-Valley Cities Housing and Policy Framework to ensure that the approaches and topics discussed within the report remain relevant and appropriate.

PASSED, APPROVED AND ADOPTED by the _____ City [Town] Council on March ____, 2019.

I, _____, City [Town] Clerk of the City [Town] of _____, California, certify that the foregoing resolution was adopted by the City [Town] Council at a regular meeting held on the ____ day of March 2019, by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

City/Town Clerk

APPROVED AS TO FORM:

City/Town Attorney