

March 20, 2007

Honorable Mayor and Members of
the Hermosa Beach City Council

Regular Meeting of
March 27, 2007

HOUSING ELEMENT LAW – SB303 (DUCHENY)


Recommendation:

That the City Council review the proposed changes to the Housing Element and take a position of opposition of SB303 and direct staff to track the bill.

Background:

Another Housing Element law change contained in SB303 would mandate up front zoning changes to accommodate a 10 year supply of housing needs. The annual mandate for the City now is around 300 units per year which we do not need now, so this could be around 3000 units! This is a good example of a mandated program with no funds coming from the state to pay for it. A copy of a fact sheet prepared by the League of California Cities is attached and it goes into detail about other potential problems with the proposed legislation.

Respectfully submitted,


Stephen R. Burrell
City Manager

Attached to this email is an action alert and sample city letter. Below is additional background info for your review.

As always, please copy me on your city letters by fax at fax# (310)784-7930 or snail mail to my attn at 3301 Airport Drive, Torrance, CA 90505.

Sincerely,

Ann Marie Wallace, Regional Manager

League Encourages Cities to Oppose SB 303

Measure Would Require Up Front Zoning for 10 Year Housing Supply

Spring is just breaking in Sacramento, which means the next round of proposed changes to the Housing Element Law are getting their first look in the Legislature. The bill that is garnering the most attention is SB 303 (Ducheny), which would overhaul the process in which local agencies must plan for and accommodate their Regional Housing Needs Assessment (RHNA) number.

This BIA sponsored bill is an attempt to create more certainty in the entitlement process for developers, which in itself may a worthy policy goal worth considering. But the bill's approach is flawed because, like so many state mandates, creates a narrow, problem-specific solution that will be difficult to unworkable in many communities. SB 303 would double the planning period (from 5 to 10 years) for the RHNA. At the same time, it requires local agencies to pre-zone their housing need for the entire 10 year period. Moreover, it would require that every single site be analyzed to ensure that the size, configuration, use, physical and environmental characteristics, adjacent uses, market demand, and infrastructure will "*realistically accommodate*" the planned density of the parcel.

As a result, each site will have to be visited and surveyed for all of these characteristics. It will be a massive and costly undertaking that results in a lowest-common-denominator focus on housing. Private developers often maintain that in contrast to traditional subdivisions, infill development "does not pencil out." The effect of this bill will be to undercut local and regional efforts to steer housing development to infill areas.

The League is arguing that this bill will encourage sprawl because it will be difficult to nearly impossible for most infill and built out cities to designate 10 years worth of housing supply in urban areas. Even in suburban and rural areas the planning emphasis will be on expansion and annexation. Additionally, the measure fails to balance this emphasis on housing with other state and local planning priorities, such as protecting open space and farmland, improving air quality, promoting infill-centered development, and maximizing the investment in existing infrastructure.

Below is a technical summary SB 303's impact on local governments if passed:

- Requires every single site identified to be analyzed by the local government to ensure that the size, configuration, current use, physical and environmental constraints,

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access, location, adjacent use... planned availability of infrastructure and services will "realistically accommodate" the density zoned for the parcel. This will be a massive and costly undertaking. Each site in a community would have to be visited and surveyed for all of the above listed issues.

- Requires the local government to attest that for each site there exists "market demand for the density and type of housing." This will not only be costly, it will also create a lowest-common-denominator focus on housing. Private developers often maintain that infill development "does not pencil out" while traditional subdivisions do. This will undercut local and regional efforts to steer housing development to infill areas, promote transit oriented development, and develop and incentivize regional blueprints for guiding growth.
- Removes opportunities for public comment and review by locking in planning and zoning on each site for 10 years, and allowing only changes consented to by the developer, or through a narrow health or safety finding which may only be adopted by a four-fifths vote. This effectively removes the ability of affected residents for civic engagement in the public forum on changes to land uses that affect them. For example, a resident would have needed to be present at a hearing on the adoption of a housing element for the entire city to have any voice about a development in their neighborhood. A building could be built in 2007, based upon a public discussion that occurred in 1997.
- Establishes the ability of all developers to collect attorney's fees against local agencies when they prevail in litigation on these matters, but provides nothing to the local tax payers when the public agency prevails. This is a bad precedent that provides significant leverage to private interests over the interests of a community and the taxpayers. It provides incentives to litigate and can have an intimidating effect especially over small communities which may lack the resources to defend themselves.
- Requires all general plans to be updated every 10 years, but provides no funding to pay for it. A comprehensive update of a local general plan for a small community costs approximately \$500,000, and larger cities and counties the costs can soar to \$5 million. That does not include the costs of the site by site analysis and other requirements of this bill. With 478 cities and 58 counties, the costs imposed by this measure will likely exceed \$500 million. This legislation states that these costs can be recovered by local governments through fees. While greenfield developers may be able to offset these costs, local governments in urban and infill areas will like face significant cost burdens on their general funds because of a lack of developer interest in building in their communities due to deteriorated infrastructure, concerns about crime and school quality, and other issues.
- Clarifies that even if all the above sites (10 years worth of sites) are identified and verified and supported by market surveys, and local governments have incurred all the costs to make them available, that nothing in the legislation shall be interpreted to affect existing laws with respect to housing development outside of these areas. This is surely sprawl and growth without limits.

It also bears observation that home builders have recently slowed housing starts due to declining prices, and are not starting new home construction even when they have all local approvals and permits. Would they do any differently with double the land supply available?

For more information on SB 303, visit www.cacities.org/billsearch and look up the measure. Further updates on this legislation will appear in future editions of *Priority Focus*.

Members Senate Transportation & Housing Committee:

Alan Lowenthal (Chair): State Capitol, Room 2032, Sacramento, CA 95814

Tom McClintock (Vice Chair): State Capitol, Room 3070, Sacramento, CA 95814

Roy Ashburn: State Capitol, Room 3063, Sacramento, CA 95814

Gilbert Cedillo: State Capitol, Room 5100, Sacramento, CA 95814

Ellen Corbett: State Capitol, Room 3092, Sacramento, CA 95814

Robert Dutton: State Capitol, Room 5094, Sacramento, CA 95814

Tom Harman: State Capitol, Room 2052, Sacramento, CA 95814

Christine Kehoe: State Capitol, Room 3086, Sacramento, CA 95814

Jenny Oropeza: State Capitol, Room 4074, Sacramento, CA 95814

Joe Simitian: State Capitol, Room 4062, Sacramento, CA 95814

Tom Torlakson: State Capitol, Room 5050, Sacramento, CA 95814

Bill Author

Denise Ducheny: State Capitol, Room 5035, Sacramento, CA 95814

Ann Marie Wallace

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Steve Burrell

From: Ann Marie Wallace [AMWallace@cacities.org]
Sent: Thursday, March 15, 2007 6:32 PM
To: Audrey Brown, Westlake Village; bcrowe@elsegundo.org; carolynn@rpv.com; Christine Hach, Gardena; David Biggs; David Lightner, Deputy CM, Beverly Hills; dbartelson@lawndalecity.org; Giordano, Mary; Gordon Anderson, Santa Monica; Jeff Muir; Jerry Givens, Inglewood; Joan English, WeHo; Iklichtig@beverlyhills.org; Martin Cole, Culver City; Pam Giamario, Lawndale; Robin Parker, Calabasas; samw@ci.rolling-hills-estates.ca.us; Jerry Fulwood, Culver City; P. Lamont Ewell, Santa Monica; parevalo@weho.org; Roderick Wood; Aaron Gross, LA Councilman Bill Rosendahl; Audrey Arlington, Beverly Hills; David Wilson, WeHo; Dia Turner Redmond, Beverly Hills; Helyne Meshar; Jeff Prang, LA Co Sheriff; kate-vernez@santa-monica.org; Kathryn Krietzman, WeHo; shelly.wolfberg@culvercity.org; adahlerbruch@cityofrh.net; bill.workman@redondo.org; dougp@ci.rolling-hills-estates.ca.us; gdolan@citymb.info; jpathirana@cityofhawthorne.org; jgroomes@carson.ca.us; jhendrickson@pvestates.org; jstewart@elsegundo.org; kbreskin@lawndalecity.org; ljackson@torrnet.com; mlansdell@ci.gardena.ca.us; Steve Burrell; t.odom@lomita.com; Aram Chaparyan, Torrance; Darryl Brown, Inglewood; dshima@cityofhawthorne.org; Ellison-Wilson Advocacy, Inglewood Lobbyist; ginap@rpv.com; Joanne Kurahashi, Redondo; lcoejuell@citymb.info; Lmann@carson.ca.us; maggie.healy@redondo.org; Mike Arnold, Redondo Lobbyist; Mike Calzada, Inglewood; Nancy Ward, Gardena; nhuynh@torrnet.com; olopez@torrnet.com; Tracy Bonano, Lomita; John Bingham; nhamburger@ci.agoura-hills.ca.us; tdipple@msn.com; Anthony Coroalles, Calabasas; Cherie Paglia, Hidden Hills; Greg Ramirez, Agoura Hills; jthorsen@ci.malibu.ca.us; Ray Taylor, Westlake Village
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Subject: Please Oppose SB 303 re: Front Zoning
Importance: High
Attachments: SB 303 Sample Letter.doc; CCSB 303 Action Alert.doc

<<SB 303 Sample Letter.doc>> <<CCSB 303 Action Alert.doc>>

ACTION ALERT!

Please contact your State Senator before March 27th to oppose SB 303 (Ducheny). The bill is set for hearing on March 27th in the Senate Transportation & Housing Committee (committee members listed below, including Oropeza).

It is important for our cities to speak up early in the legislative process on this one. We also need to engage our community partners during the coming weeks about the potential impacts to the environment, etc.

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