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May 20, 2016

Camille Wagner (via email)
Office of Governor Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814
camille.wagner@gov.ca.gov

RE: Governor Brown's Housing Legislation in the 2016-17 May Revision

Dear Camille Wagner:

On behalf of Circulate San Diego, whose mission is to create excellent mobility choices and vibrant, healthy neighborhoods, I am writing to express our strong support for the housing legislation proposed and supported in Governor Brown's 2016-17 May Revision.

In addition to the Governor's proposed trailer bill, we also support SB 1069, AB 2299, and AB 2501.

Many regions in California, including in San Diego, see a severe challenge to affordability because of insufficient construction of market-rate and deed-restricted affordable homes. Governor Brown's leadership for building more homes for a wide variety of Californians is welcomed and needed.

The Governor's proposed trailer bill language on "Streamlining Affordable Housing Approvals"¹ (hereinafter "Trailer Bill") will help communities build more homes that meet the planning and land use requirements decided by those same communities.

This proposal will serve as a useful extension and implementation of California's Housing Element law, which already requires local governments to plan for adequate sites where new multi-family homes can be located. With the Trailer Bill, local governments will be prevented from undermining their housing elements by eliminating their ability to reject, delay, or diminish projects that are consistent with their own adopted land use rules.

We recommend, however, that the Trailer Bill be amended to ensure that it more clearly helps implement State Density Bonus Law. Currently, the proposed Trailer Bill could be interpreted by local

¹ Streamlining Affordable Housing Approvals – Proposed Trailer Bill, available at http://www.dof.ca.gov/budgeting/trailer_bill_language/local_government/documents/707StreamliningAffordableHousingApprovals_000.pdf.

governments to be unclear on whether projects using Density Bonus can qualify for the new “by right” benefits.

Trailer Bill § 65913.3(b)(2) extends by right permitting to projects that include some affordable homes, and that are “consistent with objective general plan and zoning standards.”

California already offers projects that include some affordable homes the option of moderate deviations from local land use rules through State Density Bonus Law. (Government Code §§ 65915-65918.)

Density Bonus projects are allowed to build modestly more units than local land use rules would allow. (Government Code § 65915.) Similarly, Density Bonus projects can also receive other concessions from local development standards, “including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required,” Government Code § 65915(k)(1), among others.

While projects using Density Bonus can receive these benefits ministerially, they result in projects that could be argued to be inconsistent with a local government’s zoning standards. The Trailer Bill should be amended to clarify that it provides by right certainty for developments that use Density Bonus to secure the minor deviations from a local government’s land use rules already contemplated by California law.

We recommend that the Trailer Bill be amended to add a provision similar to the language below:

Section 65913.3(l): The use of any benefits, densities, incentives, concessions, or waivers granted through State Density Bonus under Government Code § 65915 shall not result in a project to be considered inconsistent with objective general plan and zoning standards according to subdivision (b)(2).

Furthermore, some cities in California have zoning and other ordinances that are not consistent with their general plans. Current California Density Bonus law already addresses that possibility by allowing projects that build affordable homes to make use of densities in a general plan, if local zoning is inconsistent. (Government Code § 65915(o)(2).)

The Trailer Bill should include similar language to Density Bonus law, to ensure projects that are consistent with a general plan receive by right entitlement, even if local zoning is inconsistent with a general plan. We recommend that the Trailer Bill be amended to add a provision similar to the language below:

Section 65913.3(m): Where a jurisdiction’s zoning standards are inconsistent with the general plan, the general plan standards shall prevail for the purposes of determining consistency with the objective general plan and zoning standards according to subdivision (b)(2).

Thank you for your continuing work to help California be more affordable for people of all incomes. Please do not hesitate to contact us if you have any questions or suggestions for how we can help.

Sincerely,



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