



# Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Reva Feldman, City Manager

Date prepared: August 7, 2020 Meeting date: August 24, 2020

Subject: State Housing Bills – Opposition (Mayor Pierson)

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**RECOMMENDED ACTION:** At the request of Mayor Pierson, authorize the Mayor to send a letter of opposition regarding Assembly Bill (AB) 1279, AB 725, AB 2345, AB 3040, AB 3107, Senate Bill (SB) 902, SB 995, SB 1085, and SB 1120, a range of housing bills being considered by the State legislature that would usurp the authority of local jurisdictions to determine land use policies that best fit the needs of their jurisdictions.

**FISCAL IMPACT:** There is no fiscal impact associated with the recommended action.

**WORK PLAN:** This item was not included in the Adopted Work Plan for Fiscal year 2020-2021.

**DISCUSSION:** The City of Malibu, along with the Cities of Agoura Hills, Calabasas, Hidden Hills, and Westlake Village, are the five member cities in the Las Virgenes-Malibu Council of Governments (COG). At a Special meeting on August 3, 2020, the COG's Board of Directors (Board) considered a report prepared by the COG Executive Director (Attachment 1) recommending opposition to nine housing bills currently pending before the California legislature. The report stated that the bills would usurp the authority of local jurisdictions to determine land use policies that best fit the needs of their jurisdictions. It further stated that the bills would impose mandates that do not take into account the needs and differences of various jurisdictions throughout the State.

After lengthy discussion, the Board determined it was more appropriate for each City Council to take action on whether to submit letters of opposition to the bills on behalf of their individual jurisdictions. The Board further decided to send a general letter stating that the COG was opposed to housing bills that would preempt local control and have the deleterious effect of changing the nature and character of a community.

Mayor Pierson is requesting Council authorization to send letters of opposition to the nine housing bills and urge the State legislature to not approve bills that usurped the authority of local jurisdictions to determine land use policies that best fit the needs of their individual jurisdictions.

ATTACHMENTS: COG August 3, 2020 Special Meeting Item No. 5 Agenda Report and proposed Resolution No. 2020-01

## **Memorandum**

**DATE:** August 3, 2020  
**TO:** Governing Board Delegates and Alternates  
**FROM:** Terry Dipple, Executive Director  
**SUBJECT:** Select Housing Legislation

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### **OVERVIEW**

The purpose of this memorandum is to present the Governing Board with information on the housing bills that are included in the proposed COG resolution.

### **BACKGROUND**

The following bill summaries were taken from the League of Cities online bill search and Livable California's website. Livable California is a statewide nonprofit/non-partisan group – including elected officials, nonprofit and organization leaders and individuals that advocates for empowerment of local governments to foster equitable, livable communities and truly affordable housing.

#### **AB 1279 (Bloom), as amended, Planning and zoning: housing development: high-opportunity areas.**

**What the League of Cities says:** The Planning and Zoning Law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided. This bill would require the department to designate areas in this state as high-opportunity areas, as provided, by January 1, 2022, in accordance with specified requirements and to update those designations within 6 months of the adoption of new Opportunity Maps by the California Tax Credit Allocation Committee. League Position: Oppose

**What Livable California says:** A year AFTER this bill becomes law, a "committee" would identify streets as "Opportunity Areas" where 50-unit to 120-unit apartments could be built, ignoring zoning as long as affordable units are included. Or developers can pay a woefully insufficient "in lieu" fee to avoid building affordable housing, and then built 10-unit luxury apartments on single-family and low-density streets in these unsuspecting "Areas." All without a single hearing.

**AB 725 (Wicks), as amended, General Plans: housing element: moderate-income and above moderate-income housing: suburban and metropolitan jurisdictions.**

**What the League of Cities says:** The Planning and Zoning Law requires that the housing element include, among other things, an inventory of land suitable for residential development, to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need determined pursuant to specified law. This bill would require that at least 25% of a metropolitan jurisdiction's share of the regional housing need for moderate-income housing be allocated to sites with zoning that allows at least 4 units of housing, but no more than 100 units per acre of housing. The bill would require that at least 25% of a metropolitan jurisdiction's share of the regional housing need for above moderate-income housing be allocated to sites with zoning that allows at least 4 units of housing. The bill would exclude unincorporated areas from this prohibition and would include related legislative findings. League Position: Watch

**What Livable California says:** A severe threat to 400+ cities who have not attracted enough housing to hit state-ordered growth targets known as the Regional Housing Needs Assessment. AB 725 brings density and upheaval to low-density areas whose residents have never even heard of RHNA. RHNA was once a helpful growth-forecasting tool. Now it's used by Senator Scott Wiener as a tool to force density on communities.

**AB 2345 (Gonzalez) as amended, Planning and zoning: density bonuses: annual report: affordable housing.**

**What the League of Cities says:** The Planning and Zoning Law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided. This bill would require that the annual report include specified information regarding density bonuses granted in accordance with specified law, as described. League Position: Oppose Unless Amended

**What Livable California says:** Allows developers to add 50% in "Density Bonus" size to a building if they agree to provide more affordable housing units than required under "Density Bonus." To create these huge buildings, developers can ignore city controls on size, parking, setbacks, side yards, trees, and other local standards.

**AB 3040 (Chui) – Local planning: Regional Housing Needs Assessment.**

**What the League of Cities says:** The Planning and Zoning Law requires the Department of Housing and Community Development, in consultation with each council of governments, to determine the existing and projected need for housing in each region

and further requires the appropriate council of governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county, as provided. This bill would authorize a city or county to include in its inventory of land suitable for residential development specified sites that contain an existing single-family dwelling unit, but that the city or county has permitted, or is proposing to permit, to contain 4 dwelling units as a use by right. League Position: Support in Concept

**What Livable California says:** Cities comply with AB 3040 by sacrificing single-family homes older than 15 years - think older housing stock - to satisfy state RHNA growth dictates. Or cities can refuse to comply and try to meet these growth dictates by relying on the state Density Bonus program. Unfortunately, the Density Bonus program is a FAIL, preventing cities from approving even close to the number of affordable units required by RHNA. More than 400 of our 482 cities won't make the RHNA targets. When cities fail, a divisive and punitive law by Scott Wiener, called SB 35, will let developers ignore many local rules to build as they wish.

#### **AB 3107 (Bloom) Planning and zoning: General Plan: housing development.**

**What the League of Cities says:** The Planning and Zoning Law authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes. This bill, notwithstanding any inconsistent provision of a city's or county's general plan, specific plan, zoning ordinance, or regulation, would require that a housing development be an authorized use on a site designated in any local agency's zoning code for commercial uses if certain conditions apply. Among these conditions, the bill would require that the housing development be subject to a recorded deed restriction requiring that at least 20% of the units have an affordable housing cost or affordable rent for lower income households, as those terms are defined, and located on a site that satisfies specified criteria. League Position: Watch

**What Livable California says:** Wreaks havoc by allowing apartment towers where cafés, shops or businesses now stand, even if adjacent to homes. The new towers would contain 20% affordable units. Each city faces a different fate — the bill arbitrarily allows heights that match the tallest height allowed in any commercial or residential area up to ½ mile away. In L.A. it means 9-story apartments citywide. In Inglewood, 75 feet would be allowed. In Manhattan Beach, it wipes out a residential 30-foot height limit to allow 99 feet.

#### **SB 902 (Weiner) Planning and zoning: housing development: zoning.**

**What the League of Cities says:** Would authorize a local government to pass an ordinance, notwithstanding any local restrictions on adopting zoning ordinances, to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the

local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria.

League Position: Watch

**What Livable California says:** Allows a majority on any city council to overturn voter-approved ballot measures that protect open space, shorelines and other lands - killing a 108-year-old California voter right. AND allows any city council to rezone “any parcel” to 10-unit luxury apartments, overriding all other zoning, inviting upheaval in older, diverse, multi-family areas. Requires NO affordability! Opens California to speculation frenzy.

**SB 995 (Atkins) Environmental Quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011: housing projects.**

**What the League of Cities says:** CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA authorizes the preparation of a master EIR and authorizes the use of the master EIR to limit the environmental review of subsequent projects that are described in the master EIR, as specified. This bill would require a lead agency to prepare a master EIR for a general plan, plan amendment, plan element, or specified plan for housing projects where the state has provided funding for the preparation of the master EIR. League Position: Watch

**What Livable California says:** This phony housing bill actually rewards huge \$15M commercial projects with housing stuck on the side! While enriching commercial developers, it requires only 15% of its housing units to be affordable. It weakens CEQA, our environmental law.

**SB 1085 (Skinner) Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.**

**What the League of Cities says:** Current law requires the amount of a density bonus and the number of incentives or concessions a qualifying developer receives to be pursuant to a certain formula based on the total number of units in the housing development, excluding the units added by a density bonus awarded pursuant to the Density Bonus Law or any local law granting a greater density bonus. This bill would require a unit designated to satisfy the inclusionary zoning requirements of a city or county to be included in the total number of units on which a density bonus and the number of incentives or concessions are based. League Position: Watch

**What Livable California says:** This bill was substantially amended on July 29 in the Assembly Housing Committee after Livable California and many groups criticized it for CUTTING IN HALF the legislature's commitment to affordable housing in "Density Bonus" projects. The new wording for this bill has not yet been published. We will UPDATE THIS SPACE as soon as we get a chance to read and analyze the amended SB 1085.

**SB 1120 (Atkins) Subdivisions: tentative maps.**

**What the League of Cities says:** Would require a proposed housing development containing 2 residential units to be considered ministerially, without discretionary review or hearing, within a single-family residential zone, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district. League Position: Watch

**What Livable California says:** Crushes single-family zoning, a threat to 8 million homeowners at all income levels. State Sen. Scott Wiener has called yards and single-family homes "immoral." SB 1120 allows 4 market-rate homes where a one home now stands (it allows 8 units, if cities have local city "granny flat" laws). Requires NO affordability! Opens California to speculation frenzy.

**RESOLUTION NO. 2020-01  
A RESOLUTION OF THE LAS VIRGENES-MALIBU  
COUNCIL OF GOVERNMENTS EXPRESSING OPPOSITION TO  
PROPOSED HOUSING LEGISLATION AND EXPRESSING  
SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN  
LOCAL DEMOCRACY, AUTHORITY AND CONTROL**

**WHEREAS**, the legislature of the State of California, has proposed a number of bills addressing a range of housing issues; and

**WHEREAS**, the majority of these bills usurp the authority of local jurisdictions to determine for themselves the land use policies and practices that best suit their cities and residents and instead impose mandates that do not take into account the needs and differences of jurisdictions throughout the State, as well as imposing unfunded mandates on jurisdictions for actions that are not in their best interests; and

**WHEREAS**, for example, the ability of jurisdictions to determine for themselves which projects require review beyond a ministerial approval, what parking requirements are appropriate for various locales within their jurisdiction, what plans and programs are suitable and practical for each community rather than having these decisions imposed upon cities without regard to the circumstances of each individual city is a matter of great import to the five cities of the Las Virgenes-Malibu Council of Governments, and

**WHEREAS**, the Las Virgenes-Malibu Council of Governments feels strongly that our local government is best able to assess the needs of our community and objects to the proliferation of State legislation that deprives us of that ability;

**NOW, THEREFORE, THE GOVERNING BOARD OF THE LAS VIRGENES-MALIBU COUNCIL OF GOVERNMENTS HEREBY RESOLVES AS FOLLOWS:**

Section 1. The Las Virgenes-Malibu Council of Governments registers its opposition to the following pieces of State legislation, without amendments:

- AB 1279 (Bloom) - Housing Developments. High Resource Areas.
- AB 725 (Wicks) General Plans: housing element: moderate-income and above moderate income housing: suburban and metropolitan jurisdictions.
- AB 2345 (Gonzalez) Planning and zoning: density bonuses: annual report: affordable housing.
- AB 3040 (Chui) – Local planning: Regional Housing Needs Assessment.
- AB 3107 (Bloom) Planning and zoning: General Plan: housing development.
- SB 902 (Weiner) Planning and zoning: housing development: zoning.
- SB 995 (Atkins) Environmental Quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011: housing projects.
- SB 1085 (Skinner) Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints.
- SB 1120 (Atkins) Subdivisions: tentative maps.

Section 2. The Las Virgenes-Malibu Council of Governments hereby registers its equally opposition to the current practice of the State legislature of proposing and passing multitudes of bills that directly impact and interfere with the ability of cities to control their own destiny through use of the zoning authority that has been granted to them.



Section 3. The Las Virgenes-Malibu Council of Governments hereby declares that should the State continue to pass legislation that impacts local municipal authority, control and revenue, the Las Virgenes-Malibu Council of Governments may support actions that strengthen local democracy and authority.

**PASSED, APPROVED, AND ADOPTED** this 3rd day of August, 2020:

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Illece Buckley Weber, President

ATTEST:

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Terry Dipple, Executive Director