

Local Housing Elements and State Housing Bonds:

A Report on Housing Activities in Communities Applying for State Bond Funds

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Housing: Local and State Government Roles

Housing production and rehabilitation in California is predominantly a *local* activity -- individual entrepreneurs develop and improve housing subject to the review and regulations of local government. The *state's* role regarding housing principally consists of setting policy goals and requirements and establishing development parameters for implementation by local government.

In enacting the Housing Policy Act of 1970, the Legislature adopted the goal of a "decent home and suitable living environment" for all Californians. To plan for this housing development, state law (Government Code 65583 et seq.) requires each city and county to prepare and amend every five years a housing element in its general plan. These housing elements, reviewed by the Department of Housing and Community Development (HCD), set forth local policies, programs, and objectives related to housing construction and rehabilitation. State law requires each community, to the extent possible, to include in its housing element a plan for developing specific amounts of housing -- known as the community's "fair share." Each community's fair share is an allocation of the projected growth in the need for housing statewide, and is determined in a multi-step procedure involving the Department of Finance, the HCD, regional councils of governments, and cities and counties. Fair-share goals are expressed in terms of specific numbers of housing units needed to be developed to serve very-low-, low-, moderate-, and upper-income Californians.

In addition to setting policy and establishing development parameters, the state also plays a small, but important, role in helping finance housing for Californians. For example, the state provides reductions in state taxes to support homeownership, makes annual appropriations of up to several million dollars from the California Housing Trust Fund, and periodically sells general obligation bonds to provide financing for a wide variety of affordable housing programs.

Over the last three years, the state's role as a financier of affordable housing has increased considerably as the Legislature has enacted, and the voters have approved, three general obligation bond measures totaling \$600 million to fund affordable housing programs: the California Earthquake Safety and Housing Rehabilitation Bond Act of 1988 (Proposition 77), the Housing and Homeless Bond Act of 1988 (Proposition 84), and the Housing and Homeless Bond Act of 1990 (Proposition 107). The HCD awards bond



funds (\$550 million) on a competitive basis to nonprofit housing developers and local agencies for the construction or rehabilitation of low-income housing projects. The HCD evaluates each housing project using a variety of criteria, including the need for the project, the number of units with three bedrooms, the number of units that are affordable to very-low-income households, and the extent to which the project is complementary to the local jurisdiction's housing program. The California Housing Finance Agency (CHFA) uses bond funds (\$50 million) to make deferred-payment loans to qualifying first-time home buyers.

Linking State Bond Funds to Local Housing Activities and Housing Elements

Chapter 1193, Statutes of 1989 (AB 1274, Hauser), declares it is the intent of the Legislature to enact *future* legislation to ensure that state bond funds made available pursuant to Propositions 77 and 84 are administered in a manner that promotes certain goals related to local housing activities. These goals are (1) encouraging efficiency in the use of housing funds, (2) rewarding localities with regulatory policies that facilitate the production of low-income housing, and (3) providing low-income housing in areas of the state where it historically has not been provided.

For the purpose of developing a standard and procedure that could be used to modify the current Proposition 77 and 84 allocation systems to better reflect the three goals stated above, Chapter 1193 directs the HCD to require local agencies applying for Proposition 77 and 84 funds to submit a report on local actions to implement the housing element of their general plan. (Chapter 1193 does not impose a similar report-collecting requirement on the CHFA.) Chapter 1193 further directs the Legislative Analyst's Office to review these reports and discuss different ways of evaluating local progress in implementing housing elements. This report is in fulfillment of the statute's requirement.

Housing Element Reports: Few and Inadequate

Due to certain ambiguities in the wording of Chapter 1193 and a very limited interpretation of the statute's requirements by the HCD, the department has collected only 12 housing element implementation reports to date.

Moreover, these reports vary markedly in terms of quality and breadth of information. There are three reasons for this outcome.

First, although Section 50861c(1) of Chapter 1193 states that, effective July 1, 1990, housing element implementation reports are required as part of all applications for Proposition 77 and 84 funding, the next section of Chapter 1193 specifies that the bill's provisions do not come into effect until January 1, 1991. Consequently, the HCD did not require these reports on applications it received during the six-month period between July 1 to December 31, 1990, when a significant percentage of the bond funds were committed.

Second, the responsibilities placed on housing sponsors (such as non-profit housing developers) by Chapter 1193 are somewhat unclear. While Chapter 1193 specifies that *local agencies* applying for Proposition 77 and 84 funding must submit housing element implementation reports, Chapter 1193 merely directs housing sponsors (who represent the major users of Proposition 77 and 84 funds) to ask their local agency for a report. The HCD interpreted Chapter 1193 to mean that housing sponsors must submit in their application for funding proof of a request for a report (generally a short letter). The HCD did not require housing sponsors, however, to submit a copy of the housing element report the local agency was asked to prepare for them.

Finally, Chapter 1193 did not direct the HCD -- and the HCD did not elect -- to issue guidelines or instructions regarding the content of the reports. Thus, the quality and breadth of the reports vary tremendously. Few reports contained substantive information regarding local programs and progress in meeting the goals articulated in local housing elements.

Because of the paucity and uneven quality of the housing element implementation reports, we are unable to develop and evaluate, as Chapter 1193 requests, various methodologies for determining local progress in implementing housing elements. In the interest of helping to meet the *intent* of Chapter 1193, however, we provide below an overview of the information contained in the reports and options for collecting the housing element implementation information the Legislature requested in Chapter 1193. Finally, we close with a brief review of the extent to which the existing Proposition 77 and 84 allocation systems reflect the three goals stated in Chapter 1193.

Housing Element Implementation Report Findings

While it is impossible to comment broadly on the status of housing element implementation in California from the data contained in the reports, our review did reveal three noteworthy observations.

First, the reporting localities vary significantly in terms of their perception of the need for affordable housing and their efforts to address these needs. Some localities, for example, administer a wide variety of affordable housing programs, including land banking for future developments, predevelopment loan assistance to nonprofit housing sponsors, and construction and rehabilitation loans. Other localities are relatively inactive. One city, for example, stated that it had no homeless persons -- and if it did, it would refer the homeless person to another locality for assistance. A different city submitted a half-page report stating that all land within the city was already fully developed and, for a variety of reasons, there was little it could do to provide affordable housing.

Second, the reports also revealed that much of the housing being produced in the localities is significantly at variance from the local government's fair-share housing need. The reports indicated that far more housing for upper-income Californians is being produced than is needed -- and far too little housing for lower-income Californians. For example, one county that is 38 percent of the way through its multiyear planning cycle has already produced *twice* as much higher-income housing as is indicated in its fair share, but only 3 percent of the housing for very-low-income households.

The disparity between new housing construction and housing need is consistent with statewide findings in a report issued last year by the California Coalition for Rural Housing entitled, *Local Progress in Meeting the Low-Income Housing Challenge*. The report found that although the state has generally met its overall residential housing construction needs, the state has produced only 16 percent of its *low-income* housing needs. In addition, the report found that almost one-quarter of all California communities are producing no low-income housing at all.

Finally, few reports discussed local activities to provide low-income *family* housing in their communities. When cities and counties cited any

activities to provide low-income housing, they generally cited construction plans for low-income senior centers. The focus on senior housing is notable because many housing experts cite the need for low-income family housing in California as at least equal to -- if not greater than -- the need for low-income senior housing. A possible explanation for this finding is that the construction of senior housing traditionally engenders less public opposition than family housing.

Options for Gathering Information on Housing Element Implementation

While significant attention has been focused in recent years on the content and review of housing elements, comparatively little attention has been focused on the *actual implementation* of the programs contained in the housing elements. The Legislature clearly intended in Chapter 1193 to gather information on this very important and understudied topic. Although the reports resulting from Chapter 1193 have been of limited value, given the important role local government plays regarding the supply of affordable housing, we think additional efforts to collect housing element implementation data are warranted. This information could be of significant assistance to the Legislature in determining housing policy, choosing the focus of state housing programs and expenditures, and evaluating proposals for enforcing local housing element implementation. Below, we outline three options for the Legislature to obtain this information.

First, the Legislature could revise Chapter 1193 to eliminate its sunset provision, specify that the HCD make greater effort to collect housing element reports from all applicants, and require the HCD to draft instructions on the content of the reports. While this option addresses the problems related to Chapter 1193 most directly, it may not result in a significant number of implementation reports -- at least within the next decade. This is because well over 80 percent of the funds authorized by Propositions 77 and 84 have been committed to specific projects or reserved for administrative expenses. Any new application requirements, therefore, would only affect applications for funds from the (1) remaining uncommitted funds and (2) the small amount of loan repayments and interest earnings the HCD receives annually.

Second, the Legislature could specify that applicants for funds from any future housing bond issue or appropriation must supply a housing element implementation report. If a fourth major housing bond measure (such as SB 593, Roberti) is approved by the Legislature and the voters, this option could result in the receipt of hundreds of housing element implementation reports. Any reports from applicants for low-income housing funds, however, may not be fully representative of housing element implementation efforts throughout the state. This is because a disproportionate number of these reports would probably come from localities with particularly active local agency- or non-profit-sponsored housing programs. The Legislature may receive relatively fewer reports from localities with less-active housing programs.

As a third option, the Legislature may be able to obtain annual information on housing element implementation throughout the state from local general plan progress reports (already required by Section 65400b of the Government Code). These documents provide an annual progress report on the status of local general plans and their implementation. In addition, Ch 1441/90 (SB 2274, Bergeson) specifies that these reports must address the community's progress in meeting its fair share. While currently these reports are not sent to the HCD, SB 1019 (Leroy Greene), on the Governor's desk, would require such a transmittal. In order to receive an overall summary of these annual documents from every city and county, the Legislature may wish to direct the HCD to review and comment on these reports in HCD's biennial *Statewide Housing Report* or in its annual status report on housing elements (now required by Section 50459 of the Health and Safety Code).

Does the Existing Allocation System Meet the Goals of Chapter 1193?

As discussed earlier in this report, the HCD evaluates proposals for Proposition 77 and 84 funds using a variety of criteria, including the need for the project, the size and affordability of the housing units, and the project's consistency with the locality's housing program.

Chapter 1193 stated that it was legislative intent to *revise* the current Proposition 77 and 84 allocation systems to improve performance related to three goals: increasing efficiency in the use of housing funds, rewarding localities that administer regulatory policies in a manner which facilitates hous-

ing for lower-income persons, and expanding housing opportunities to areas of the state where low-income housing historically has not been provided. Given the limitations of the submitted reports, we cannot use the available data to assist the Legislature in considering options for altering the allocation system. In an effort to meet the intent of the statute, however, we include in this section some observations regarding the conformity of the HCD's Proposition 77 and 84 allocation system and the goals specified in Chapter 1193.

Efficiency. Our review indicates that the existing allocation system has two significant shortcomings with regards to the goal of efficient use of housing funds. First, the existing allocation system has no mechanism for giving preferences to cost-effective projects -- those with low per-square-foot construction or rehabilitation costs. Because cost is not a direct consideration in the allocation system, some projects with extraordinarily high costs have been funded and more cost-effective projects have been rejected. Second, the allocation system permanently reserves 20 percent of bond funds for projects in rural areas, regardless of demand for funds. In several cases, this set-aside has resulted in bond funds remaining uncommitted -- despite significant demand elsewhere in the state. Our review indicates that these shortcomings have impaired the efficiency of allocating Proposition 77 and 84 funds. We note that SB 593 (Roberti) includes several mechanisms for addressing these problems.

Rewarding Localities. Our review indicates that the existing allocation system includes significant consideration of the second goal -- providing incentives to local governments with regulatory policies that facilitate housing for low-income persons. Specifically, housing projects located in areas that (1) have a housing element which is in compliance with state law and (2) are implementing programs within the community to promote the availability of affordable housing earn extra points in the allocation system. Given the substantial competition for funds in many of the bond programs, these point differences often determine which projects are approved for funding.

Whether the allocation system should be revised to *increase* the consideration of this second goal is a difficult policy question for the Legislature. Most housing experts support the idea of providing incentives to localities that administer their local land use powers in a way to provide housing for *all* members of their community. Many experts express the concern, however, that making low-income housing funds contingent on low-income housing

performance (1) fails to provide an effective incentive to communities that traditionally have been unsupportive of low-income housing and (2) places an unfair hardship on nonprofit housing developers working in these communities.

As an alternative, the Legislature may wish to create incentives with *other* state monies (such as water, sewer, or park bond funds) -- or by restricting local agencies' opportunities to amend their redevelopment plans.

Expanding Housing Opportunities. Finally, our review indicates that the existing allocation system includes some consideration of the third goal -- expanding housing opportunities to underserved areas. Proposed projects earn extra points if they are located in areas with unusually low housing vacancy rates, high housing costs, or long waits for subsidized housing. Whether the existing allocation system should be revised to increase the emphasis on expanding housing opportunities is also a difficult policy call. On the positive side, providing such an incentive may result in increased housing in areas of the state in greatest need of low-income housing. On the other hand, increasing the emphasis on this goal may mean that projects from cities and counties which have been active promoters of low-income housing are rejected.

Conclusion

Due to ambiguities in Chapter 1193 and a very narrow interpretation of the statute's requirements, the HCD has collected very few housing element implementation reports. Our review of the reports revealed that the localities vary markedly in terms of their perception of housing need and in their efforts to address these needs. In addition, housing construction in the reporting localities does not appear to be consistent with housing need for low-income persons in general -- and low-income *families* in particular.

The Legislature has several options for collecting information pertaining to housing element implementation. We believe this information could be of significant assistance to the Legislature as it evaluates housing policy and expenditures -- and proposals for housing element implementation enforcement. Finally, the HCD's current allocation system for state bond funds addresses fairly well two of the three goals (rewarding localities and expanding housing opportunities) set forth in Chapter 1193; however, efforts to



improve the state's performance in these areas presents difficult policy choices for the Legislature. With regard to the other goal (efficiency), SB 593 (Roberti) includes several mechanisms that would improve the state's performance in this area.

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