

EAST SUNSET HILLSIDE ASSOCIATION

P O BOX 26048 LOS ANGELES, CA 90026

April 14, 2015

PLEASE INCLUDE IN THE ADMINISTRATIVE RECORD

Planning and Land Use Committee
Gilbert Cedillo
Jose Huizar
Mitch Englander
200 N. Spring Street
Los Angeles, CA 90012

VIA EMAIL
Sharon.Gin@lacity.org

Re: Council File 14-1325 ✓
Value Capture and Entitlement Streamlining Report

Honorable Members of the Planning and Land Use Committee,

We agree that the provision of affordable housing in Los Angeles is a critical problem. Moreover, we believe that neighborhood stability has not been addressed within the discussion of long term planning for affordable housing. This, we believe, is the most critical issue around the distribution of that housing. Much time is spent talking about providing affordable housing, but what occurs daily is the destruction of rent-controlled housing and the displacement of those residents in favor of new developments that produce larger tax revenue. Even with the benefits of AB2222, there are no mechanisms to ensure those neighbors displaced by new building projects are the first in line for the affordable units created in their neighborhoods. That is the critical NEXUS that must be explored.

This Motion gives only a passing glance at an "Affordable Housing Trust Fund", but goes into great detail outlining what it intends to do for developers and what it intends to take away from the public process. Streamlining = fewer opportunities for public input. When it comes to the issue of neighborhood stability, the last thing we need is to eliminate opportunities for those affected to weigh in.

Creating a "menu of land use mechanisms" smacks of SB1818 and the horribly flawed manner in which the City implements the law. This proposed Motion aims to connect public benefit and "by-right" permission to bend the rules. Who will be making these judgment calls? Who will be noticed?

The creation of a "menu" attempts to eliminate points of review for discretionary actions. Our neighborhoods are unique and varied. No stand-alone, pre-approved "menu" could capture the dynamic needs of such varied communities as Van Nuys, Silverlake and Venice, for instance. When you homogenize the process and marginalize the impacted public, you harm our unique communities and facilitate a one-size-fits-all giveaway to developers looking to exploit unthoughtful planning regulations.

Instead of spending effort on the proposed Motion and its goal to create new and easy methods for developers to build bigger, eliminate parking and PERMEABLE green space, why don't you circle back around and take action on the 8 motions that have come before you since SB1818 came into law? SB1818 is a law that already provides incentives for the inclusion of low income housing and parking reductions. What this Motion creates is another incentive mechanism that is free from the "cost reduction" and proforma requirements outlined in SB1818.

In fact, Council File 14-0692-s1 was presented to this very committee on May 27, 2014 asking for a report of the inventory of SB1818 created affordable units and the accountability mechanisms in place to monitor them. This Motion presented by Mike Bonin is still active, and sits languishing in your committee. Before you consider fast-tracking more of these projects and providing further incentives for an untested housing program, you must revisit the Bonin motion and perform the requisite study to demonstrate the success (or failure) of the affordable housing program that currently exists.

The attached article by veteran reporter John Schwada shines light on the City's problematic implementation and oversight of affordable units. This proposed Motion seeks to create more lenient mechanisms for the creation of affordable units that have been demonstrated to suffer from fraud, non-existent oversight within HCID, and no staffing from City Planning to ensure project conditions. In short, no one is watching, except the developers who are cashing in on the City's oversight failures.

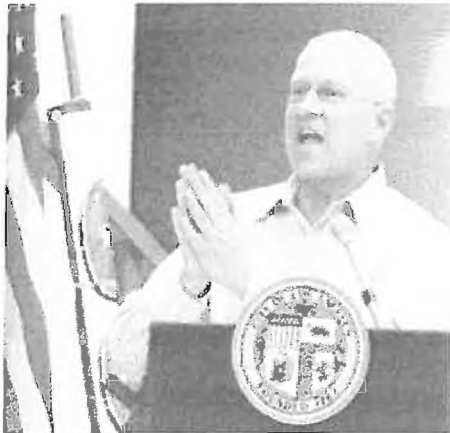
Do not act on this Motion. Instead, act on Mike Bonin's Motion 14-0692-s1. Provide us with the hard facts to show what works and doesn't work with the current program in place before you recklessly fast-track another.

Thank you for this opportunity to comment.

Jennifer Deines, on behalf of
East Sunset Hillside Association

Density Bonus Law ... City Hall's Hidden Nightmare

09 Jan 2015 Written by John Schwada



PLANNING POLITICS-The [LA Times reports this week](#) about City Hall's lax enforcement of land-use restrictions on developers were unsettling. But the paper may have only touched the tip of the iceberg.

Troubling signs also exist that City Hall may not be doing a forceful job at all of policing how developers comply with the state-mandated Density Bonus Law; that nearly-revolutionary law effectively allows developers to over-ride community planning priorities and super-size their projects - if they also "give back" to the community. That's the big "if."

In effect, the Density Bonus Law (SB 1818) has allowed hundreds of apartment house developers – with very little oversight - to significantly boost the size of their projects in return for their promise to "give back" by adding

low and very low income housing units in their projects.

SB 1818 allows developers to super-size their projects beyond their "by right" entitlements in two ways:

- 1) By adding extra "affordable" apartment units to their projects that are supposed to be set aside and rented exclusively to eligible low-income tenants; and,
- 2) By adding extra market rate units to their projects that can be rented to the rest of their tenants.

A case in point: The BW is a luxury apartment complex for young millennials at the northeast corner of Wilshire and Barrington in West Los Angeles. By right, the developer (California Landmark Group-Barrington LLC) was entitled to build 50 units on this site according to the Brentwood-Pacific Palisades community plan.

But because it promised to provide five (5) low-income units under SB 1818, California Landmark Group was entitled to build 23 additional market rate units – in spite of what the community plan allowed. Bottom-line: instead of 50 units, The BW has 78 units, a whopping 56 percent increase.

Another example: The developer Townscape Inc. is proposing to build two high-end apartment buildings across the street from the landmark Hotel Marmont on the Sunset Strip. Thanks to SB 1818 and Townscape's commitment to build two-dozen affordable units, the project is seeking permission to build 228 units, about 100 more market rate units than it would be normally entitled to build by right, not to mention the two-dozen affordable units. Amazing.

Add up all these SB 1818 projects citywide – and you can quickly see how the law's super-sizing incentives have created a torrent of environmental impacts not envisioned by neighborhoods and their community plans.

The theory behind the DB rules is simple: developers need to be incentivized to build low-income units. And this encouragement is provided by allowing developers to build additional market rate units to subsidize their profit margins and make it financially feasible to afford providing the low-income units.

Obviously, there is a "social good" behind all this - ensuring that the city provides a balance of housing opportunities to persons of all income levels, including low-income persons.

The trade-off is heightened growth and its impact on the city's infrastructure from overburdened roads and schools, stretched sewer and water delivery systems and potential declines in police and fire services.

Now arguably the trade-off could be worth it. It is important to have heterogeneous neighborhoods with income diversity.

But are we really getting that?

Hard to tell. In fact, this author as a result of research for a client who was fighting a large neighboring project, delved into the issue of whether developers who were obtaining the benefits of density bonus rules were actually renting their low-income units to low income persons.

Here's what I found:

A 2011 study showed that between 2005 and 2009 (well before our recent housing boom) a total of 161 Density Bonus projects were built – creating a total of 6,023 new units, of which 2,333 were affordable. The study does not say how many of the remaining 3,690 market rate units in the survey were "bonus" units – built beyond what the developer was entitled to build by right. I think it's safe to say that at least 1,000 to 1,500 fall into this category.

The city's Housing and Community Investment Department (HCID) is supposed to audit the density bonus projects to ensure that the units set aside by the developers for low-income tenants are actually rented to qualifying tenants. The city has hired a private contractor, Urban Futures Bond Administration Inc., to perform these audits.

The city's 2014 contract with Urban Futures said the city's inventory of affordable housing had grown to 334 density bonus ("land use") projects and 5,240 affordable units (from 161 projects and 2,333 units in 2009).

The city is paying Urban Futures \$14 per unit per year to audit those 5,240 affordable units.

Now, this would be a terrific deal if - for a mere \$14 per unit per year - Urban Futures auditors actually went into the field, inspected and eye-balled these units to verify that the developers' paperwork claims about who is renting their affordable units were accurate.

I would willing to bet (I do NOT know this for a fact) but I think it's fair to assume that for \$14 per unit all the city is getting is a desk-top audit: a review of the developers' annual reports to determine that all the right boxes have been checked.

I asked HCID for data about how many non-compliance cases their auditors turned up; they are still trying to develop this information.

My suspicions about this whole auditing process were exacerbated when I compared two city databases: one was comprised of the 161 density bonus projects (with their addresses) from the 2011 report, performed by the city's Planning Department; the other was a registry of all affordable units – including ones created by the density bonus law – in the city compiled by HCID. This registry is supposed to assist low-income folks find affordable units (which may or may not be available for rent – but are affordable nonetheless).

I found that of 69 density bonus projects in West LA and Hollywood and parts of the San Fernando Valley only four (possibly five) were listed on the registry. A less rigorous review of similar projects in South LA and East LA, for example, found that all these projects were on the registry.

Question: why were all these apartment buildings with affordable units in West LA not showing up on the registry? Is this an innocent oversight? Are these upscale projects not listing their affordable units because they don't want to encourage "poor" people to really have a shot at renting their units and "dragging down" values? If that's the case, who are renting these units? What are these owners hiding – or gaining – by keeping their units off the registry?

Honestly, I don't have an answer. Yet. Maybe the *LA Times* will get around to filling in some of these blanks.

I also asked the property managers of three density bonus buildings in Brentwood if they had affordable units for rent – when city records said they should have. I drew blanks. They didn't seem to know what I was talking about. To be fair, when I later visited two of these buildings (yes, under false pretenses) I got different - but still not satisfying - answers. Frankly, I don't have the time, nor the authority to fully check this out as a private citizen.

But I also have the sinking feeling that at \$14 per unit per year, the city's auditors are unlikely to be fully checking these issues out either.

In fact, I fear that the public could be getting badly hoodwinked – we are allowing the developers to super-size their projects, to work-around our community plans, to create new environmental impacts and yet we don't have a very firm fix, I believe, on whether we're getting the benefit of low-income units being rented to eligible tenants.

I am not the only one who has raised concerns about these matters.

Three councilmembers, led by Paul Koretz, introduced a motion in April, 2009 to fix their concerns about the density bonus law; in particular, they wanted to require that developers "provide written financial proof that any incentive [granted under the density bonus law, i.e. all those extra units] is financially necessary" – in other words, that they could not provide the affordable housing without the incentives.

The trio also wanted to increase the number of neighbors who would have to be notified that the city's Planning Director was considering a developer's density bonus application; as it stands, the notification is now limited to adjacent property owners only. As far as I could ascertain, the planning director has never turned down a density bonus application; nor has the director ever held a public hearing to witness his review of such an application.

That motion went nowhere.

Two similar motions were introduced in May 2014 by Councilman Mike Bonin (photo above). Here's the language from one of those motions:

"If our neighborhoods are going to be asked to absorb the additional density, traffic and development impacts from density bonus projects, the City must ensure that the affordable units being produced are being operated as affordable units, are being maintained at affordable rent or sale levels, and are occupied by residents who truly qualify for the housing."

Here, here!! But Bonin's well-meaning motion is still sitting in the Planning and Land Use Committee and I doubt that there are many councilmembers who want to rock the density-bonus boat. All the more reason for the media to start digging.

(John Schwada is a former investigative reporter for Fox 11 in Los Angeles, the LA Times and the late Herald Examiner and a contributor to CityWatch.)

**SB1818 DENSITY BONUS
and AB2222**

**History of City Council
Motions & Resolutions**

February 2008 through January 2015

MOTION

I THEREFORE MOVE that the Planning Department collect data and publish annually a report on the net loss of existing affordable housing units including RSO units and affordable rental units (up to 120% of median income) for all projects using the SB1818 density bonus.

Presented by: *Bill Rosendahl*
BILL ROSENDAHL
Councilman, 11th District

Seconded by: *[Signature]*

Motion
ADOPTED
FEB 06 2008
LOS ANGELES CITY COUNCIL

FEB - 6 2008

[Handwritten initials]

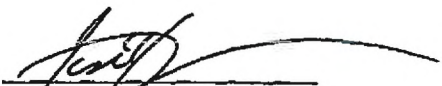
I have not been able to find any evidence that these annual reports are produced.

MOTION


I MOVE that the matter of the Ordinance First Consideration relative to amending Sections 12.22, 12.24, 14.00 and 19.01 of the Los Angeles Municipal Code (LAMC) to implement a Density Bonus Program, as required by State law, Item 30 on today's Council Agenda (CF 05-1345) BE AMENDED, to instruct the Planning Department to report back in one year on the status of the implementation of this Ordinance, including, but not limited to, data on how many projects were approved, how many affordable units were created as a result of this Ordinance, where these projects were located, what was the overall effect throughout the year of each of the amendments made by Council to this Ordinance, and recommendations for changes to the ordinance which would help increase its effectiveness.

~~FEB 12 2008~~ CONTINUED TO Feb 13, 2008
Public Hearing Closed

Motion
ADOPTED
FEB 13 2008
LOS ANGELES CITY COUNCIL

PRESENTED BY: 
JOSE HUIZAR
Councilman, 14th District

SECONDED BY: 

February 12, 2008
ak


APR 22 2008

PLANNING & LAND USE MANAGEMENT

MOTION

Recently the City of Los Angeles implemented state law SB1818, the state law that passed with bipartisan support to encourage the development of affordable housing throughout California. The City Council in collaboration with the Mayor's Office, the Planning Department, the Planning Commission, and the City Attorney designed a local ordinance that included many protections to preserve the character of neighborhoods in Los Angeles. Although the City ordinance was written to comply with state law, concern has been raised regarding conflicts between SB1818 and the City of Los Angeles' implementation ordinance related to certain permits that can be obtained at the Department of Building and Safety counter.

To continue implementing this state law in a manner that protects the residential character of neighborhoods in Los Angeles, the City respectfully requests that the California State Attorney general to provide advice to clarify this section.

I THEREFORE MOVE that the Council request the City Attorney to obtain an opinion from the California State Attorney General relative to any conflicts between SB 1818 (Hollingsworth) and local zoning laws, and that the City Attorney prepare a report with its findings for the consideration of the Council.

PRESENTED BY: E.G. Kelly

SECONDED BY: James [Signature]

APR 22 2008

08-0996-5

EG

09-0964

APR 28 2009

PLANNING & LAND USE MANAGEMENT

MOTION

On February 13, 2008 the City Council adopted a Density Bonus Program in order to comply with SB 1818, a State law passed back in 2004. As part of the Council's action, an amendment was passed to request that the Planning Department report back to Council in one year on the status of implementation of the ordinance (CF#05-1345).

Planning was asked to include in its report data on how many projects were approved, how many affordable units were created, where these projects were located, and what the overall effect throughout the year was of each of the amendments made by Council during deliberations and recommendations for changes to increase the ordinance's effectiveness.


With the recent action of a Los Angeles Superior Court judge to toss out a portion of the City's Density Bonus Program earlier this month, the need for feedback from the Planning Department on the effect of the new law is critical. An unknown number of projects, many already under construction, will be impacted by this ruling, if it is allowed to stand.

The City is also about to begin deliberations on a new Mixed Income Housing ordinance, the possible parameters for which have been laid out by the Mayor. The City Attorney and Planning should brief the Council on whether the City should seek to amend its density bonus law at the same time as it seeks to adopt a new mixed income ordinance.

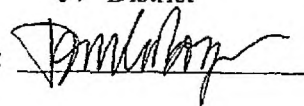
I THEREFORE MOVE that the Planning Department be requested to report to Council on the impact of the City's Density Bonus Program one year after it took effect. This report should include information about how many projects were approved, how many affordable units were created, where these projects were located, what was the overall effect throughout the year of each of the amendments made by the City Council during deliberations, and recommendations for changes to increase the ordinance's effectiveness.

I FURTHER MOVE that the City Attorney and Planning Department be requested to report to Council with an analysis of how the City should proceed with its deliberation over the creation of a Mixed Income Housing ordinance in light of the recent Los Angeles Superior Court decision to strike out those portions of the City's Density Bonus Program that allow for levels of density greater than those authorized by the State through SB 1818.

PRESENTED BY:


JOSE HUIZAR
Councilmember
14th District

SECONDED BY:



ORIGINAL

APR 28 2009



NO ACTION TAKEN
EXPIRED 9/16/2011

29

10-0017

TO CITY CLERK FOR PLACEMENT ON NEXT
REGULAR COUNCIL AGENDA TO BE POSTED #51

JAN 06 2010

MOTION

For Tuesday January 12, 2010

At its meeting on October 22, 2009, the City Planning Commission (CPC) orally denied the appeal in case number DIR-2008-1178-DB-SPP-1A and ENV-2008-1179-MND and sustained the entire Determination of the Director of City Planning. On December 23, 2009, the CPC issued its written denial of the appeal in such case.

In its action in this case, the CPC approved the following: 1) a 35% density bonus which raised the total number of units to 146, 2) a set aside of 12 units for Very Low Income households, 3) a maximum height of 48'-7" on the south elevation and 4) a maximum height of 45'-7" on the east, west and north elevations. The CPC also found that 233 parking spaces were required for the project and that 266 spaces were provided.

SB 1818 provides for various "incentives" to be granted in order to facilitate the creation of bonus units such as were awarded in this case. However, the statute also provides for such incentives to be denied if they are not needed to create such units. The CPC action does not address the issue of whether the incentives in this case were actually needed.

It should be the policy of this Council that incentives requested pursuant to SB 1818 and the City's implementing ordinance should only be granted where applicants clearly demonstrates that they are necessary in order to accomplish the objectives of the statute.

I THEREFORE MOVE that, pursuant to Section 245 of the Los Angeles City Charter, the City Council assert jurisdiction over the December 23, 2009 written action taken by the City Planning Commission in case number DIR-2008-1178-DB-SPP-1A and ENV-2008-1179-MND.

I FURTHER MOVE that, upon the assertion of jurisdiction, a full and complete public hearing on this matter be held by the Planning and Land Use Management Committee and that, following such hearing, the City Council make an appropriate decision on the issues presented herein.

PRESENTED BY: Paul Krekorian
Paul Krekorian
Councilman, 2nd District

SECONDED BY: Paul Kretz

this portion was NOT ADOPTED PROJECT WAS DENIED BASED ON CEQA ONLY

See attached

ORIGINAL

JAN - 6 2010

ADOPTED

JAN 12 2010

LOS ANGELES CITY COUNCIL
FORTHWITH

EG

4

2/

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

FILE NO. 10-0017

Your **PLANNING AND LAND USE MANAGEMENT** Committee

reports as follows:

PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT relative to appeals filed in connection with a 35 percent Density Bonus to allow construction of rental apartments for property at 11933 Magnolia Boulevard.

Recommendations for Council action:

1. RESOLVE TO GRANT APPEALS filed by: 1) Magnolia Tree Villas Homeowners Association, Jennifer Reed, Sandy Hubbard, Weddington Plaza Homeowners Association, et al., and Dale Liebowitz-Neglia, et al. (Jennifer Reed, Representative); and 2) Members of the Board of Neighborhood Council Valley Village (Anthony J. Braswell, Representative) from the entire determination of the Director of Planning on California Environmental Quality Act grounds only, and THEREBY OVERTURN the Director of Planning's action relative to Project Permit Compliance Review, Site Plan Review, and in approving a 35 percent Density Bonus to allow construction of 146 rental apartments for property at 11933 Magnolia Boulevard.

Applicant: Gary Schaffel

DIR-2008-1178-DB-SPP-SPR
ENV-2008-1179-MND

2. DIRECT the Department of City Planning to make the appropriate findings based on the record and the City Attorney's recommendation.

(On January 12, 2010, Council adopted Motion [Krekorian-Koretz] pursuant to Charter Section 245, asserting jurisdiction over the December 23, 2009 written action of the City Planning Commission.)

Fiscal Impact Statement: Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: Yes

For Proposal: Valley Glen Neighborhood Association
Coastal San Pedro Neighborhood Council
Granada Hills Neighborhood Council
Greater Valley Glen Council
Mar Vista Community Council
Neighborhood Council Valley Village

TIME LIMIT FILE - FEBRUARY 2, 2010

(LAST DAY FOR COUNCIL ACTION - FEBRUARY 2, 2010)

Summary:

At a public hearing held on January 26, 2010 (continued from the meeting on January 19, 2010), the Planning and Land Use Management (PLUM) Committee considered appeals filed by: 1) Magnolia

Tree Villas Homeowners Association, Jennifer Reed, Sandy Hubbard, Weddington Plaza Homeowners Association, et al., and Dale Liebowitz-Neglia, et al. (Jennifer Reed, Representative); and 2) Members of the Board of Neighborhood Council Valley Village (Anthony J. Braswell, Representative) from the entire determination of the Director of Planning in approving a 35 percent Density Bonus to allow the construction of 146 rental apartments for property at 11933 Magnolia Boulevard, subject to Conditions of Approval.

After consideration of the documents on record and testimony provided by staff from the Planning Department and Department of Transportation, and the City Attorney's office, the Applicant, Appellants and their representatives, the PLUM Committee recommended that Council grant the appeals on California Environmental Quality Act grounds only, overturn the Director of Planning's action relative to Project Permit Compliance Review, Site Plan Review, and in approving a 35 percent Density Bonus; and direct the Planning Department staff to make the appropriate findings based on the record and the City Attorney's recommendation.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE



*NO comment
on the
feasibility
issue.*

<u>MEMBER</u>	<u>VOTE</u>
REYES:	YES
HUIZAR:	ABSENT
KREKORIAN:	YES

PYL
CD 2
1-27-10
10-0017-rpt_plum_date

ADOPTED

JAN 29 2010

LOS ANGELES CITY COUNCIL

MOTION

Deep concern exists throughout the City regarding overrides and exceptions to our carefully designed land-use plans and zoning regulations. Since its enactment into law on April 15, 2008, the City's SB 1818 Density Bonus Ordinance (No. 179681) has caused too many impacts on our neighborhoods, at the expense of too little affordable housing. In fact, in many instances, these development projects result in the loss of affordable housing.

To miss an opportunity to fix our implementing ordinance is not acceptable. The City is enacting changes to its ordinance ordered by a Superior Court judge, but additional changes are necessary. These additional changes are necessary to limit our ordinance to what is required by state law and to improve protections for our neighborhoods.

Sufficient time has lapsed since the City's adoption of its density bonus implementing ordinance (CF 05-1345), such that a comprehensive look at SB1818, how we are doing, and what changes can be made, is not only prudent, but necessary.


I THEREFORE MOVE that the Council instruct the Planning Department, in consultation with the City Attorney, to revise the SB1818 density bonus implement ordinance (No. 179681) to reflect the following policy changes:

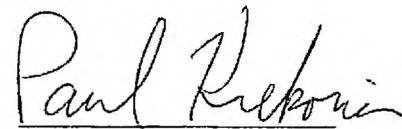
- a. Require all Density Bonus applications to provide written financial proof that any incentive is financially necessary for the provision of the affordable housing.
- b. Expand the notification radius for all Density Bonus cases to include all those who are within 500-feet, and notify Neighborhood Councils as well.
- c. Allow any interested stakeholder to appeal a Density Bonus Determination not exclusively abutting owners and occupants.

I FURTHER MOVE that the Council direct the Planning Department to prepare a report within 45 days that evaluates the efficiency of the City's SB1818 ordinance in providing affordable housing, versus units lost to such projects, and its impacts on neighborhoods.

I FURTHER MOVE that the Council direct the Housing Department to prepare a report within 45 days that documents whether SB1818 affordability covenants are being enforced, whether the neediest individuals are actually being given these units, and if there are any changes needed for improvement.

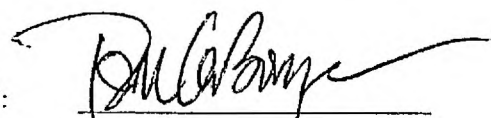
PRESENTED BY:


PAUL KORETZ
Councilmember, 5th District


PAUL KREKORIAN
Councilmember, 2nd District

SECONDED BY:

APR 9 2010


TOM LABONTE
Councilmember, 4th District

NO ACTION TAKEN
EXPIRED 7/9/12

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City of Los Angeles contains a variety of affordable and workforce housing for all types of families. Many existing older units are affordable in terms of their rent and occupancy but are not "income restricted and covenanted" units that are protected from demolition by the City's housing policies; and

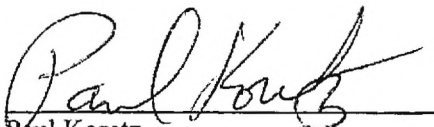
WHEREAS, the City of Los Angeles has a responsibility to protect existing housing units and the stability of its neighborhoods; and

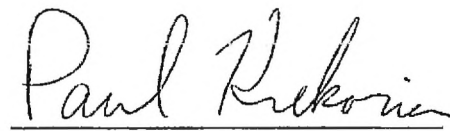
WHEREAS, the ability of the City of Los Angeles to plan for and protect its neighborhoods is severely restricted by state Density Bonus law; and

WHEREAS, presently density bonus developments oftentimes burden neighborhoods with development that is not only out of scale in terms of density but in terms of height and bulk and other zoning restrictions all while resulting in a net reduction in affordable units.

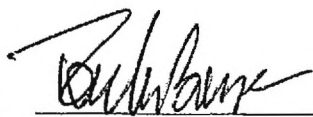
NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that the City of Los Angeles hereby includes in its 2009-2010 State Legislative Program SUPPORT for repeal of the State Density Bonus Law (SB 1818), which would lead to improved planning, local control and housing stability for the City.

PRESENTED BY:


Paul Koretz
Councilmember, 5th District


Paul Krekorian
Councilmember, 2nd District

SECONDED BY:


TOM LABONGE
COUNCILMEMBER, 4TH DISTRICT

NO ACTION
TAKEN.
EXPIRED
7/9/12

114-0002-552

APR 23 2014

15

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California's density bonus law (popularly referred to by its bill number "SB 1818") requires cities and counties to implement local ordinances to create incentives for developers to set aside affordable units in proposed developments; and

WHEREAS, the purpose of the density bonus law was to increase the availability of affordable housing, but in practice it has encouraged developers to demolish large numbers of existing affordable units and replace them with the small percentage of low income units required under the law, thus reaping the benefits of the incentives while creating a net reduction of affordable units; and

WHEREAS, the density bonus law requires a covenant to preserve the new units as affordable for only 30 years; and

WHEREAS, on February 20, 2014, Assemblymember Adrin Nazarian introduced AB 2222, legislation that is intended to clean up the State Density Bonus Act; and

WHEREAS, AB 2222 would require continued affordability for 55 years or longer, for all very-low and low-income units that are required under the density bonus law; and

WHEREAS, AB 2222 would close the loophole allowing for a net reduction of affordable units in density bonus projects, and would instead (i) require a net increase of affordable units, (ii) require an applicant for density bonus to replace existing affordable units with the same number of affordable units to be made available for rent to, and occupied by, persons and families in the same or lower income category, and (iii) requires the housing development includes an additional set aside of affordable units at the percentages set forth in the density bonus law.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-14 State Legislative Program SUPPORT for AB 2222 (Nazarian).

PRESENTED BY: Paul Krekorian
PAUL KREKORIAN
Councilmember, 2nd District

Mike Bonin
MIKE BONIN
Councilmember, 11th District

Seconded By: Paul Kretz

[Signature]
APR 23 2014

ADOPTED

APR 29 2014

LOS ANGELES CITY COUNCIL

ORIGINAL

MAY 27 2014

14-0692-51

HOUSING

MOTION

The City's SB 1818 Density Bonus Ordinance (No. 179681) was enacted into law on April 15, 2008, and since that time, a number of density bonus projects have been built in the City that contain affordable units set aside for lower- and middle-income households. The overarching goal of SB 1818 and the City's Density Bonus Ordinance was to increase the availability of housing for the City's lower- and middle-income residents to ensure access to housing for those who really need it. There are, however, serious concerns that these affordable housing units are not serving their intended population. No publicly available centralized system for renting SB 1818 affordable units is maintained by the City, and there are difficulties faced in monitoring the occupancy of the SB 1818 units that exist in the City.

If our neighborhoods are going to be asked to absorb the additional density, traffic, and development impacts from density bonus projects, the City must ensure that the affordable units being produced are being operated as affordable units, are being maintained at affordable rent or sale levels, and are occupied by residents who truly qualify for the housing.

The Housing + Community Investment Department (HCID) is tasked with monitoring and administering the City's SB 1818 affordable housing stock. In order to ensure that the affordable units contained in SB 1818 density bonus projects are being properly operated, an audit of these units is necessary.

I THEREFORE MOVE that the Council instruct the Housing and Community Investment Department, in consultation with the Planning Department as necessary, to prepare a report within 90 days that analyzes and, where appropriate proposes improvements, related to the following:

1. The number of SB 1818 affordable units that have been entitled and built since April 15, 2008, including a breakdown of the units by Council District, a listing of how many units are supposed to be at each affordability level (i.e., very low, lower, moderate, and workforce), and whether all units are operating at the designated affordability level;
2. The number of rent-controlled units that have been demolished and replaced by SB 1818 density bonus projects containing affordable units;
3. The income level of the households who are occupying the SB 1818 affordable units, an explanation of how tenants or purchasers are identified, selected, and qualified for affordable units, whether there is additional information that the City can require from potential tenants to ensure that they are properly income-qualified, and how this process complies with Fair Housing laws;
4. What regulations and policies are in place to govern the situation in which a qualified tenant becomes no longer income-qualified after moving into an SB 1818 affordable unit; and

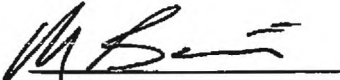
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5. What regulations and policies are in place to govern the situation in which a qualified purchaser is no longer income-qualified after purchasing an SB 1818 affordable unit, and whether the purchaser of an SB 1818 affordable for-sale unit can rent that unit after purchase, and if so, what rules govern that rental.


PRESENTED BY:


MIKE BONIN
Councilmember, 11th District


MITCH O'FARRELL
Councilmember, 13th District

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SECONDED BY:


PAUL KREKORIAN
Councilmember, 2nd District

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MOTION

Nearly a decade ago, an idea about how to create more affordable housing throughout the state was adopted. Commonly referred to as SB 1818, this law allowed developers to benefit from density bonuses and incentives, in exchange for setting aside a percentage of the residential units in a project for lower- or middle-income households.

Since the City's SB 1818 Density Bonus Ordinance (No. 179681) was enacted into law on April 15, 2008, the projects approved under the City's implementing ordinance have changed the character of our communities, causing tremendous impacts in return for too little affordable housing. These projects have burdened our neighborhoods without providing the benefit of a meaningful increase in affordable housing stock. In fact, in too many instances, these density bonus projects have resulted in a net loss of affordable units, dramatically altering the character of neighborhoods and undermining the goal of diverse and affordable neighborhoods.

What started out as a well-intentioned attempt to ensure economic diversity in our communities has become sadly manipulated and littered with loopholes that allow for incentives that create more density, more traffic, and incompatibly massive structures. The density bonus applications often fail to demonstrate the economic necessity of the incentives to achieve affordable housing objectives. This is particularly true for incentive requests that are not "on the menu" set out in the City's Density Bonus Ordinance. These "off-menu" requests were intended to ensure that generally applicable development standards would not have the unintended result of precluding construction of a density bonus project. They were not intended as a backdoor way for developers to maximize profits simply by providing a relatively small amount of affordable housing.

Fixing the problems with SB 1818 and the City's SB 1818 Density Bonus Ordinance is a multi-step process, at both the state and local level. However, there are some things that can be done in the short term to ensure that projects seeking to take advantage of off-menu incentives meet both the letter and the intent of the law to facilitate the production of affordable housing, but not to do so at the expense of our neighborhoods.

I THEREFORE MOVE that the Council instruct the Planning Department to:

1. Strictly enforce the provisions of the City's SB 1818 Density Bonus Ordinance requiring that all requests for the waiver or modification of any development standard not on the menu include a pro forma or other documentation to show that the "off-menu" request is needed to make the affordable units economically feasible.
2. Require an objective, third-party analysis of the pro forma or other documentation, prepared by a financial real estate expert that is pre-qualified by the City, to ensure that the analysis adequately substantiates the claim that the off-menu request is needed to make the affordable units economically feasible.

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3. Establish an appropriate methodology to guide the preparation and analysis of the pro forma or other documentation and third-party review of such information to ensure that "off-menu" requests are sufficiently justified to make the affordable units economically feasible, by looking at best practices of other jurisdictions and in consultation with industry experts.

I FURTHER MOVE that the Council direct the Planning Department to prepare a report within 45 days that (1) details how many SB 1818 density bonus projects have been approved since the adoption of the City's Density Bonus Ordinance, and of those projects how many included economic information from the applicant to support the necessity of the concessions, incentives, or waivers to make the affordable housing economically feasible; (2) documents the resources the Planning Department currently has to review the economic information, details what additional resources the Planning Department requires in order to sufficiently analyze any economic information provided in connection with density bonus projects; (3) provides a plan for obtaining those resources, including potential fees for projects with off-menu incentives to allow for review of the economic information; and (4) looks at the feasibility of requiring the applicant to provide objective third party analyses as part of these requests, under the framework of existing State law and the City's enabling ordinance.

PRESENTED BY:



MIKE BONIN

Councilmember, 11th District

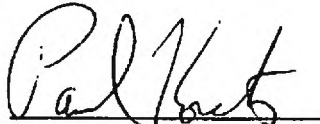


PAUL KERKORIAN

Councilmember, 2nd District

ORIGINAL

SECONDED BY:



PAUL KORETZ

Councilmember, 5th District

14-1519

MOTION

The City's SB 1818 Density Bonus Ordinance (No. 179681), was enacted into law on April 15, 2008 (Council File No. 05-1345). The intent of SB 1818 was to increase the availability of housing for the city's lower and middle income residents.

SB 1818 has enabled developers to benefit from density bonuses and incentives, in exchange for setting aside affordable units in proposed development projects.

On September 27, 2014, the Governor signed into law AB 2222 (Nazarian), which makes several changes to the State Density Bonus Act, and would require (a) affordability for 55 years or longer, for all low and low income units required under the density bonus law; (b) require a net increase of affordable units; (c) require an applicant for density bonus to replace existing affordable units with the same number of affordable units to be made available for rent to, and occupied by, person and families in the same or lower income category; and (d) require the housing development to include an additional set aside of affordable units at the percentage set forth in the density bonus law.

On September 27, 2008, the Governor signed into law AB 2280 (Saldana), which removed a requirement in the State Density Bonus Act that an applicant for a waiver or reduction of development standards show that the waiver or modification is necessary to make proposed housing units economically feasible.

Given the changes to the State Density Bonus Act which will go into effect on January 1, 2015 with the enactment into law of AB 2222, and changes in 2008 with the enactment into law of AB 2280 (Saldana), the city needs to resolve any and all inconsistencies between the city's Density Bonus Ordinance and State law.

I THEREFORE MOVE that the Council request the City Attorney, with the assistance of the Planning Department and the Housing and Community Investment Department, to prepare and present an ordinance that provides consistency between the city's Density Bonus Ordinance and amendments that have been made to the State Density Bonus Act with the enactment into law of AB 2222 effective January 1, 2015, and prior amendments in 2008 with the enactment into law of AB 2280.

PRESENTED BY: Gilbert Cedillo
GILBERT CEDILLO
Councilmember, 1st District

SECONDED BY: Paul Reboreiro
Paul Reboreiro

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