

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 28, 2019

TO: Honorable Members of the City Council

FROM: Sharon M. Tso *ISK*
Chief Legislative Analyst

Council File No: 19-0002-S117
Assignment No: 19-06-0695

SUBJECT: Resolution (Koretz – Harris-Dawson) to OPPOSE SB 592 (Wiener).

CLA RECOMMENDATION: Adopt Resolution (Koretz – Harris-Dawson) to include in the City's 2019-2020 State Legislative Program OPPOSITION to SB 592 (Wiener), which would amend the Housing Accountability Act by reducing local control of housing land use decisions and would allow developers who prevail in court over the rejection of a housing development to receive compensatory damages.

SUMMARY

Resolution (Koretz – Harris-Dawson), introduced on June 26, 2019, states that the City of Los Angeles has taken significant actions to remediate the housing crisis, including Measure JJJ and the Linkage Fee. The Resolution further describes the Housing Accountability Act (1982), which prohibits a local agency from disapproving or conditioning approval for housing developments that comply with the agency's land use laws, unless the local agency makes specified findings. SB 592, introduced by Senator Wiener, amends the Housing Accountability Act by clarifying that a housing development does not need to be a multi-unit project, rather, a project could be a single housing unit, accessory dwelling, or an addition of a bedroom to an existing home. The bill would additionally make these expanded restrictions under the Housing Accountability Act apply to any form of land use decision by a local agency, including ministerial or discretionary actions. Developers who prevail in court over the rejection of a housing development due to a violation of the Housing Accountability Act would further be entitled to receive compensatory damages. Stating that these provisions would limit the City's local land use authority and not solve the housing crisis, the Resolution calls on the City to oppose the legislation.

BACKGROUND

The Housing Accountability Act (the Act), which became law in 1982 and was most recently amended in 2017, prohibits a local agency (including a city) from disapproving or conditioning approval for a housing development project that adheres to the general plan or zoning law of the local agency, unless the agency makes specific findings:

- The project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

The Act currently applies to votes taken by local agencies in connection to multi-family residential, mixed-use, and transitional/supportive development applications and in cases where the local agency fails to comply with specific timelines described in State law. The Act also authorizes an applicant to bring an action against the local agency. Should a violation have occurred, the court may award attorney's fees and costs to the plaintiff.

SB 592 would amend the Act to: 1) apply to any form of land use decision by a local agency, including both ministerial and discretionary actions; 2) apply to disapproval of a housing development project by means of any instance when a local agency takes action on the proposed housing development project application and disproves the project; and 3) in the case of a ministerial project, the Act would apply if the local agency fails to comply with time periods specified in the applicable law authorizing the ministerial project.

In addition, the bill would expand on the definition of a housing development to include a single unit, an accessory dwelling unit, or the addition of one or more bedrooms to an existing residential unit. It would further authorize the project applicant to seek compensatory damages against the local agency for a violation of the Act.

By expanding the types of housing projects subject to the Act and authorizing applicants to seek compensatory damages, the bill both limits the City's local land use authority and puts the City at risk for additional litigation and financial exposure concerning development projects. For these reasons, the City should oppose SB 592.

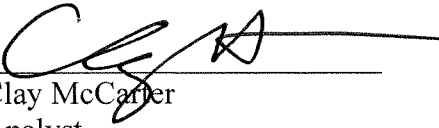
DEPARTMENTS NOTIFIED

Planning Department

BILL STATUS

SB 592 was introduced in February 2019 as a bill regarding the State Board of Barbering and Cosmetology. It passed the Senate and was gutted and amended to its current form. The status of this new version is as follows:

06/13/19 From committee with author's amendments. Read second time and amended. Re-referred to Com. on H. & C.D.


Clay McCarter
Analyst

Attachment: Resolution (Koretz – Harris-Dawson)

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, the City of Los Angeles has taken significant actions to remediate the housing crisis challenging cities across the State, including Measure JJJ and the Linkage Fee; and

WHEREAS, the Housing Accountability Act (1982) prohibits a local agency from disapproving or conditioning approval for housing developments that comply with the agencies land use laws, unless the local agency makes specified findings; and

WHEREAS, SB 592, introduced by Senator Wiener, amends the Housing Accountability Act by clarifying that a housing development does not need to be a multi-unit project, that a project could mean a single housing unit, accessory dwelling, or an addition of a bedroom to an existing home; and

WHEREAS, SB 592 would additionally make these expanded restrictions under the Housing Accountability Act apply to any form of land use decision by a local agency, including ministerial or discretionary; and

WHEREAS, the bill would allow developers who prevail in court over the rejection of a housing development due to a violation of the Housing Accountability Act to receive compensatory damages, in addition to attorney fees; and

WHEREAS, SB 592 would limit the City's local land use authority on development projects by both narrowing the requirements allowed to deny a wider range of projects and pressure cities to approve projects for fear of compensatory damages within the time limit, and not solve the housing crisis;

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 2019-2020 State Legislative Program OPPOSITION to SB 592 (Wiener) which would amend the Housing Accountability Act by reducing local control of housing land use decisions and would allow developers who prevail in court over the rejection of a housing development to receive compensatory damages.

PRESENTED BY: Paul Koretz
PAUL KORETZ
Councilmember, 5th District

SECONDED BY: [Signature]

JUN 26 2019

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