



AB 1276 – Streamlining the Housing Project Permitting Process

PURPOSE

Assembly Bill 1276 enhances transparency and consistency in the housing development approval process by expanding the protections of SB 330 (2019) to state and regional agencies. This bill also makes updates to the policies and standards governing statutory vested rights to provide greater clarity and predictability for housing projects.

BACKGROUND

The approval process for housing projects can take years, and unexpected changes in government rules can have significant impacts, sometimes rendering projects infeasible. SB 330, also known as the Housing Crisis Act of 2019, was a crucial step in providing certainty for housing projects by allowing developers to submit a "preliminary application" and therefore lock in local agency rules and regulations at the time of submission.

Under existing law, after an applicant files a preliminary application, the project has 6 months to perfect a "complete application." The housing development project thereafter gains vested rights to proceed under the rules in effect when the preliminary application was submitted. Exceptions allow new regulations to be applied in cases of health and safety concerns or to mitigate significant CEQA environmental impacts. However, SB 330 only applies to local agencies.

In the Housing Accountability Act (HAA), housing projects are analyzed for consistency with governmental agencies' adopted plans (e.g., general plans, zoning codes). Previously, regulatory agencies had broad discretion in determining project consistency, with courts deferring fully to their decisions. This allowed agencies to deem projects inconsistent with adopted plans often resulting in project delays or additional requirements.

The HAA was amended in 2017 to apply the "reasonable person" standard to local agencies. For example, if substantial evidence exists such that a reasonable person could find a project consistent with an applicable regulatory plan, it is deemed consistent as a matter of law.

SOLUTION

AB 1276 strengthens SB 330's vesting protections to ensure housing projects are not subject to regulatory changes at the state or regional agency level once a preliminary application has been submitted, except for cases concerning health, safety, or as necessary to mitigate environmental impacts. This bill also applies the "reasonable person" standard to state and regional agencies, promoting fair, objective and consistent decision-making.

Additionally, this bill adds to the definition of "policies and standards" under SB 330 vested rights to explicitly include building material requirements and postentitlement permit standards. This ensures that housing projects cannot face unexpected changes in construction material mandates or permitting procedures after their preliminary application is submitted, providing greater certainty for developers and local governments.

By reducing regulatory uncertainty and reinforcing clear, consistent standards, AB 1276 will help accelerate housing production while fostering a more transparent approval process.

SUPPORT

California Building Industry Association – (Co-Sponsor)

CONTACT

Brenda Contreras, Legislative Director
brenda.contreras@asm.ca.gov
916-319-2039