



CALIFORNIA STATE SENATOR

Jesse Arreguín

REPRESENTING SENATE DISTRICT 07

SB 786 – Resolving Ambiguities in Housing Element Law

SUMMARY

SB 786 would resolve several ambiguities in housing element law to provide clarity for local governments, project applicants, and courts.

BACKGROUND

Californians need more housing, at more affordable price-points, to be built as soon as possible. The best path to that outcome is for every city and county to plan to meet the community's housing needs by adopting and implementing a valid housing element. In 2017 and 2018, the Legislature strengthened the state's housing element law to ensure that local governments would each do their part to plan to meet their fair share of their region's housing needs. Implementation and enforcement during this first cycle of housing elements under the revised rules have revealed some ambiguities in the law, which has led to administrative friction, litigation, and, most importantly, delays in realizing the goal of facilitating robust home building at all income levels.

PROBLEM

Clarity in the law benefits all parties. It is important for project applicants and local governments to have the same understanding of legal and planning requirements when they are planning and reviewing projects. This is not possible when there are conflicts or inconsistencies between local laws and an adopted housing element. It also isn't possible when there are conflicts between different general plan elements or between a general plan element and a specific plan. These ambiguities are

causing confusion among local governments, project applicants, and courts. These ambiguities can deter investment and can lead to significant litigation, both of which delay construction to build homes that hardworking Californian families desperately need.

SOLUTION

SB 786 would resolve several ambiguities in housing element law with clearly defined rules and standards. The bill would clarify the following in housing element law:

- When there are conflicts and inconsistencies between general plan elements and/or specific plans, the HCD-certified housing element would supersede other plans.
- When local governments agree to remove specific constraints on housing development as a condition of housing element certification, those constraints would be deemed removed immediately upon HCD certification of the housing element, unless the certified housing element specifies a different deadline. If the constraint is not removed by the deadline, then the housing element would be automatically decertified.
- When local governments require local voter approval of the housing element, HCD would set a deadline for local voter approval as a condition of housing element certification. If a local government fails to obtain the relevant voter approval by the

deadline, the housing element would be automatically decertified.

- To encourage housing element compliance, court processes and timelines would be adjusted to further expedite trials and provide more meaningful relief earlier, and throughout the appellate process, when the party enforcing the law is likely to prevail on the merits.

CONTACT

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SUPPORT

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