



ANTONIO VAZQUEZ
CHAIRMAN
CALIFORNIA STATE BOARD OF EQUALIZATION

MEMORANDUM

Date: October 15, 2021

To: Mike Schaefer, Board Vice Chair
Ted Gaines, Board Member
Malia M. Cohen, Board Member
Betty T. Yee, State Controller
Ernest J. Dronenburg, Jr., President, California Assessors Association

From: Antonio Vazquez, Board Chairman

Re: Annual Board Meeting with County Assessors, 10/19/21: Item AA.3. Low-Income Housing Exemption Improvement.

As a 2022 priority, I am proposing that the Members and Assessors work together to provide guidance regarding affordable housing legislation signed by the Governor to address the critical housing problem in our state. On September 30, he signed 27 bills dealing with affordable housing and 4 other such bills earlier in the month, stating that the package establishes streamlined processes leading to the creation of 84,000 new units. Based on a quick review, my staff and I identified at least seven bills, mentioned below, that have property tax or change in use implications that may require further guidance. By being proactive, we can develop for local jurisdictions and property owners, as well as the legislators, information on property classification issues, property tax valuation, assessments, welfare exemption eligibility, restricted value, and other challenges that may arise in the implementation of such measures.

1. AB 345. Sharon Quirk-Silva (D-Fullerton) – Accessory dwelling units: separate conveyance.

Requires the local agency to allow an accessory dwelling unit (ADU) to be sold separately subject to a new condition – that the *tenancy in common agreement* include specific information on the areas used by a cotenant, each cotenant's liability for the taxes, and all property improvements.

2. AB 721 Richard Bloom (D-Santa Monica) – Covenants and restrictions: affordable housing.

Makes any recorded covenants, conditions, restrictions, or limits on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale that restricts the number, size, or location of the residences that may be built on the property, or that restricts the number of persons or families who may reside on the property,

unenforceable against the owner of an affordable housing development if an approved restrictive covenant affordable housing modification document has been recorded.

3. AB 1584 by the Committee on Housing and Community Development – Housing omnibus. (Housing Accountability Act)

- ADUs. Makes void and unenforceable any covenant, restriction, or condition in any deed, contract, or instrument affecting the transfer of real property that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a single-family lot.
- Mobile homes as ADUs. Provides that an area of land is not a mobile home park due to the rental of an accessory dwelling unit created by use of a manufactured home.
- Policy. It is the policy of the state that a local government not reject or make infeasible housing development projects and to interpret and implement to the fullest possible extent housing approval. Ineligibility to claim the welfare exemption under RTC Section 214(g) is not an adverse impact justifying disapproval.
- Supportive housing. *Supportive housing* shall be a *use by right* in any residential or mixed use zones subject to a recorded affordability restriction for 55 years.

4. SB 591 by Senator Josh Becker (D-Menlo Park) – Senior citizens: intergenerational housing developments.

Creates a state policy supporting intergenerational housing for senior citizens, caregivers, and transition age youth, as described in Section 42(g)(9) of the Internal Revenue Code; and permits developers in receipt of local or state funds or tax credits for affordable rental housing to restrict occupancy to senior citizens, caregivers, and transition age youth, and permits such developers to prioritize and restrict occupancy.

5. SB 728 by Senator Robert Hertzberg (D-Van Nuys) – Density Bonus Law: purchase of density bonus units by nonprofit housing organizations.

While existing law establishes a *welfare exemption* which exempts property from taxation if it is owned and operated by a nonprofit corporation organized and operated for the purpose of building/rehabilitating single-family or multifamily residences for sale to low-income families, this bill, instead, requires the developer and the city or county to ensure that (1) a for-sale unit that qualified the developer for the density bonus award is initially occupied by a person/family of the required income, is offered at an affordable housing cost, and includes an equity sharing agreement, or (2) a qualified nonprofit housing organization that is receiving the welfare exemption purchases the unit under a recorded contract that includes an affordability restriction, an equity sharing agreement, and a repurchase option that requires a subsequent purchaser who desires to sell, to first offer it to the nonprofit corporation for repurchase.

6. SB 791 Dave Cortese (D-San Jose) – California Surplus Land Unit.

Existing law authorizes any school district to sell or lease, for a term not exceeding 99 years, any real property belonging to the district which will not be needed for school classroom buildings. This bill establishes the *California Surplus Land Unit* in the Department of Housing and

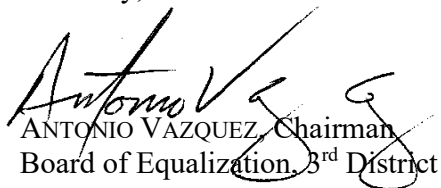
Community Development to facilitate the development and construction of residential housing on local surplus land and authorizes the unit to facilitate agreements between housing developers and local agencies, provide advice and technical assistance, and collaborate with other state agencies.

7. SB 9 Toni G. Atkins (D- San Diego) - Housing development: approvals.

Known as the “HOME Act” (Housing Opportunity and More Efficiency Act), this bill requires a proposed housing development of no more than 2 residential units in a single-family zone to be considered *ministerially*, without discretionary review or hearing, if it would not require demolition or substantial alteration, is not subject to a rental restriction/law, and it is not historic. It requires a local agency to *ministerially* approve a parcel map for an urban lot split in a single-family residential zone. Additionally, it requires an applicant to sign an affidavit stating they intend to occupy one of the housing units as their principal residence for a minimum of 3 years unless the applicant is a community land trust (RTC Section 402.1) or a qualified nonprofit corporation (RTC Section 214.15). Project approval is exempt from CEQA.

I look forward to discussing this matter with you and collaborating closely to do whatever we can within our authority and expertise to provide guidance and information.

Sincerely,


ANTONIO VAZQUEZ, Chairman
Board of Equalization, 3rd District

cc: California Assessors Association Members
Ms. Kari Hammond, Chief Deputy, Office of Chairman Antonio Vazquez
Mr. Gary Gartner, Chief Deputy, Office of Vice Chair Mike Schaefer
Mr. Matt Cox, Chief Deputy, Office of Member Ted Gaines
Ms. Regina Evans, Chief Deputy, Office of Member Malia M. Cohen
Ms. Yvette Stowers, Deputy State Controller
Ms. Brenda Fleming, Executive Director
Mr. Henry Nanjo, Chief Counsel