

Business, Transportation and Housing Agency
Outline of Proposed Reforms for General Plan Housing and Land Use Elements
March 2005

Summary of Challenge

Housing is not only a significant segment of California's economy, housing also is pivotal to California's economic recovery and long-term economic competitiveness. Bringing California back as the Golden State, with the promise of prosperity for all, demands leadership to ensure that housing truly is available and affordable for all Californians. Now is the time to move from analysis to action, from rhetoric to reality.

The lack of an adequate housing supply for all income levels of California's population, especially the workforce, is a significant threat to sustained economic prosperity. However, the solution does not primarily require more public money: the solution requires government action.

Housing prices and rents in California are among the highest in the nation. Employers consistently cite the high costs of living and labor (which are direct results of the high cost of housing) as among the top reasons they cannot locate or remain in California. The high cost of housing is cited in every respectable economic study as a major detractor for the California business climate.

The root cause of the housing crisis is the lack of sufficient supply. The housing affordability challenge is first and foremost an availability problem—a classic case of supply and demand imbalance. Strong demand for an extraordinarily-constrained supply in areas where people already live and jobs are being generated drives prices and rents higher and higher. Further, the fastest rising cost component of housing is land costs because of the constrained supply of land properly designated and zoned by local jurisdictions. In fact, many local jurisdictions are not even planning to accommodate their own natural population increase, let alone workforce. And, the jobs-housing imbalance in many regions is pushing housing farther and farther away from job centers, resulting in inefficient land use patterns—one of the greatest threats to California's environmental quality.

The proposed policy reforms for General Plan Housing and Land Use Elements are based on the understanding that a real solution to the housing crisis must begin with expanding housing supply through increased production, which requires an expanded inventory of land properly designated and zoned for housing development in local general plans. Thus, the proposed policies focus on expanding housing supply consistent with the Governor's Environmental Action Plan.

Further, the proposed policy reforms recognize that the ability of the homebuilding industry to respond to consumer demand is totally defined and controlled by government—both state policy and local land use authority. In other words, market forces are shaped and constrained by government rules. To advance a bold solution to the housing crisis that approaches meeting the housing need, there must be an increase in land supply appropriately designated for housing development to meet the full range of affordability for all income categories. This will require legislation that both (a) amends existing land use planning laws to require local jurisdictions to plan to accommodate a sufficient supply and (b) rewards them for approving housing. Anything short of this kind of action will be mostly "working at the margins" of the problem. In addition, without this kind of fundamental change, there is little hope of interrupting the inefficient land use pattern of "dumb growth" causing significant environmental impacts and seriously undermining the prospects for improving transportation mobility.

Relationship to “Anti-Dumb” Growth Policies and Local Land Use Authority

Housing has been recognized by the Administration as the “linchpin” or centerpiece of “anti-dumb” growth or smart growth policies. The following are excerpts from the January 2004 testimony in the Senate Committee on Housing and Community Development.

Housing is the linchpin of sustainable development and smart growth. It is inextricably inter-related with transportation, land use, air quality, and education. And, it is the common connecting element or "intersection" of the "3 Es" of smart growth: Prosperous Economy, Quality Environment, and Social Equity.

While housing advocates are often divided into two camps—those that like the term “smart growth” and those who don’t—the difference of opinion turns principally on how the challenge of an adequate housing supply is approached. Those that embrace the term define it as a concept of a better land use pattern that accommodates an adequate housing supply. Those that reject it tend to see it as the latest fad ignoring economic realities of land use development and another excuse to avoid a commitment to an adequate housing supply. So, while there may be differences of opinion about the meaning of “smart growth,” perhaps there can be wider understanding of the consequences of “dumb growth” which undeniably is impacting economic competitiveness.

The most powerful force causing “dumb growth”—affordable housing farther and farther away from job centers resulting in increasingly longer vehicle commutes, creating more air pollution, inappropriately urbanizing agricultural lands and encroaching on valuable habitats—is the lack of housing supply (for all ranges of affordability) closer to job centers and within existing urbanized areas. While there are other issues that contribute to and compound the problem—ranging from the state-local fiscal relationship to construction defect litigation and abuse of CEQA—without an effective mechanism to expand the supply in the right places, there will not be a solution that meets the scope and scale of the problem.

In promoting “anti-dumb growth” as an Administration policy priority, there is a need to strike an appropriate and workable balance between: (a) the responsibility of state government to ensure the overall economic, environmental and equity well-being of California’s people and resources; and (b) the respected tradition of local control that can tailor development to community needs.

Currently local land use authority is granted by the state subject to certain laws and regulations. Local land use authority or local control already is directed and defined by state law (General Plans, including Land Use, Housing, Transportation / Circulation, and Open Space Elements; Regional Housing Needs Allocation and Determination process; and environmental and resource protection laws, such as those pertaining to air quality, wetlands, water). The state has a legitimate interest in ensuring that the overall public well-being is served and the economic competitiveness of California is promoted. Both are threatened by current land use patterns and the failure of local governments to plan for and accommodate an adequate housing supply.

The proposed reforms of the Housing and Land Use Elements are not new mandates; rather, they are modifications of existing planning requirements coupled with regulatory reform and relief to provide more flexibility and resources for local government. They recognize and rely upon local and regional leadership as essential to meeting California’s housing needs while embracing fundamental economic principles of supply and demand to achieve sufficient housing availability and affordability for all Californians.

Summary of Proposed Reforms for Housing and Land Use Elements

The following is a summary of proposed reforms for the General Plan Housing and Land Use Elements for the purpose of obtaining feedback and input from stakeholders. They are working concepts that are intended to advance the goals and objectives of the Administration, but do not as a whole constitute at this time the official position of the Administration. The feedback and input from stakeholders will be used to develop and refine specific legislative language.

Existing laws pertaining to General Plan Housing and Land Use elements would be amended to accomplish the following:

- Declare principles and findings establishing housing as a vital statewide interest and as essential to achieving the 3Es: Prosperous Economy, Quality Environment and People Equity
- Address the housing crisis—both the availability and resulting affordability challenges—by expanding housing supply through a strategy of increasing the inventory of land designated and zoned by local governments available for housing development while also protecting and minimizing impacts on valuable environmental resources and productive farmland.
- Establish a new, simpler and more equitable approach to local housing “fair share” obligation: replace the current Regional Housing Needs Allocation and Determination law with the concept that each general purpose local government will be required simply to “take care of their own” natural population increase and workforce.
- Set new timeframes for General Plan planning horizons (20-year supply of land for housing) and Housing Element updates (moving from 5 years to 10 years) that provide both relief to local governments and align land use planning with the realities of real estate development and construction for the majority of the housing supply.
- Amend existing General Plan requirements for the Housing and Land Use Elements to require each general purpose local government (city, county, and city and county) to properly designate and zone at appropriate densities a sufficient supply of land for housing to match their own natural population increases and job generation (whichever is greater) for the next 20 years (with the most efficient land use pattern possible).
- Require the designated and zoned land inventory to accommodate the full spectrum of the population income categories (very low, low, moderate and above moderate households).
- Require a specific percentage to meet the housing need to be zoned for multi-family homes at densities consistent with AB 2348 standards and will require a specified percentage to allow development without further discretionary approval.
- Allow two or more contiguous jurisdictions to share their housing obligations through cooperative agreements provided that it doesn’t significantly adversely impact the sub-regional or regional transportation system.

- Establish a process for promulgating implementing regulations and determining the housing “fair share” obligation for each jurisdiction (for all income categories) which involves and consults regional (COGs and MPOs) and local governments (including state associations). Designate the Business, Transportation and Housing Agency to lead the process in cooperation with the Housing and Community Development Department (HCD) and the Department of Finance. Designate HCD to promulgate regulations.
- Provide additional direction for achieving the required land inventory for housing with the most efficient land use pattern possible by encouraging local governments to:
 - Optimize infill and refill (recycling of “economically underutilized land” currently developed with uses that are not the most productive economically) with greater regulatory certainty. The state will be providing significant technical information and assistance to local governments to achieve this objective.
 - Protect productive farmland and valuable habitat.
 - Achieve a mix of housing in proximity to employment centers.
 - Foster community and neighborhood design that reduces dependency on single-occupant vehicle trips and impacts on air quality: encourage mixed-income, mixed-use, connected neighborhoods that are walkable, bikeable and accommodate public transit.
 - Promote resource efficiency in community and neighborhood design (conservation of water and energy, green building).
- Provide “by rights” protections for projects in compliance with the General Plan and Land Use and Housing Elements for a certain period of time. (Additional reform and relief will be provided through the Administration’s CEQA improvement proposals.)
- Establish significant legal and monetary penalties for jurisdictions not in compliance with the revised planning requirements, with the penalties dedicated to an affordable housing trust fund (for very low and low income housing units).
- Set forth a process for performance-based self-certification of the Housing Element in order to provide additional relief to local governments (with a performance goal of an average over 3 years of 80% of fair-share housing obligation, including at least 30% of obligation for very low and low income households (excluding units resulting from inclusionary zoning ordinances unless subsidy is from broad-based financial and/or regulatory assistance; rehabilitation of such units eligible to meet up to 25% of the allocation).
- Establish a new sampling process for HCD to review self-certified housing elements and monitor or audit compliance (10% of jurisdictions within a region).
- Require greater disclosure of the impacts of proposed local control measures.
- Delay implementation of local ordinances or voter-approved initiatives that would constrain housing supply from becoming effective until the local jurisdiction is in compliance with the law and is meeting its fair share obligation through production performance.