

ASSEMBLY BILL

No. 720

Introduced by Assembly Member Caballero

February 26, 2009

An act to amend Section 65583.1 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, as introduced, Caballero. Land use: housing element.

The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs and includes a statement of goals, quantified objectives, policies, financial resources, and scheduled programs for the maintenance, preservation, improvement, and development of housing. The housing element is required to identify the existing and projected housing needs of all economic segments of the community. The Department of Housing and Community Development is authorized to allow a city, county, or city and county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element, as specified, when the community includes in its housing element a program committing the local government to provide units in that income category within the city, county, or city and county that will be made available through the provision of committed assistance during the planning period covered by the housing element to low- and very low income households at affordable housing costs or affordable rents, as defined.

This bill would authorize any city or county that uses funding from its Low and Moderate Income Housing Fund within a redevelopment project area for purposes of substantially rehabilitating a unit to count the unit towards meeting its share of the regional housing need for affordable housing, as defined, for low-, very low, or extremely low income households.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65583.1 of the Government Code is
2 amended to read:

3 65583.1. (a) The Department of Housing and Community
4 Development, in evaluating a proposed or adopted housing element
5 for substantial compliance with this article, may allow a city or
6 county to identify adequate sites, as required pursuant to Section
7 65583, by a variety of methods, including, but not limited to,
8 redesignation of property to a more intense land use category and
9 increasing the density allowed within one or more categories. The
10 department may also allow a city or county to identify sites for
11 second units based on the number of second units developed in
12 the prior housing element planning period whether or not the units
13 are permitted by right, the need for these units in the community,
14 the resources or incentives available for their development, and
15 any other relevant factors, as determined by the department.
16 Nothing in this section reduces the responsibility of a city or county
17 to identify, by income category, the total number of sites for
18 residential development as required by this article.

19 (b) Sites that contain permanent housing units located on a
20 military base undergoing closure or conversion as a result of action
21 pursuant to the Defense Authorization Amendments and Base
22 Closure and Realignment Act (Public Law 100-526), the Defense
23 Base Closure and Realignment Act of 1990 (Public Law 101-510),
24 or any subsequent act requiring the closure or conversion of a
25 military base may be identified as an adequate site if the housing
26 element demonstrates that the housing units will be available for
27 occupancy by households within the planning period of the
28 element. No sites containing housing units scheduled or planned

1 for demolition or conversion to nonresidential uses shall qualify
2 as an adequate site.

3 Any city, city and county, or county using this subdivision shall
4 address the progress in meeting this section in the reports provided
5 pursuant to paragraph (1) of subdivision (b) of Section 65400.

6 (c) (1) The Department of Housing and Community
7 Development may allow a city or county to substitute the provision
8 of units for up to 25 percent of the community's obligation to
9 identify adequate sites for any income category in its housing
10 element pursuant to paragraph (1) of subdivision (c) of Section
11 65583 where the community includes in its housing element a
12 program committing the local government to provide units in that
13 income category within the city or county that will be made
14 available through the provision of committed assistance during
15 the planning period covered by the element to low- and very low
16 income households at affordable housing costs or affordable rents,
17 as defined in Sections 50052.5 and 50053 of the Health and Safety
18 Code, and ~~which~~ *that* meet the requirements of paragraph (2).
19 Except as otherwise provided in this subdivision, the community
20 may substitute one dwelling unit for one dwelling unit site in the
21 applicable income category. The program shall do all of the
22 following:

23 (A) Identify the specific, existing sources of committed
24 assistance and dedicate a specific portion of the funds from those
25 sources to the provision of housing pursuant to this subdivision.

26 (B) Indicate the number of units that will be provided to both
27 low- and very low income households and demonstrate that the
28 amount of dedicated funds is sufficient to develop the units at
29 affordable housing costs or affordable rents.

30 (C) Demonstrate that the units meet the requirements of
31 paragraph (2).

32 (2) Only units that comply with subparagraph (A), (B), or (C)
33 qualify for inclusion in the housing element program described in
34 paragraph (1), as follows:

35 (A) Units that are to be substantially rehabilitated with
36 committed assistance from the city or county and constitute a net
37 increase in the community's stock of housing affordable to low-
38 and very low income households. For purposes of this
39 subparagraph, a unit is not eligible to be "substantially
40 rehabilitated" unless all of the following requirements are met:

1 (i) At the time the unit is identified for substantial rehabilitation,
2 (I) the local government has determined that the unit is at imminent
3 risk of loss to the housing stock, (II) the local government has
4 committed to provide relocation assistance pursuant to Chapter 16
5 (commencing with Section 7260) of Division 7 of Title 1 to any
6 occupants temporarily or permanently displaced by the
7 rehabilitation or code enforcement activity, or the relocation is
8 otherwise provided prior to displacement either as a condition of
9 receivership, or provided by the property owner or the local
10 government pursuant to Article 2.5 (commencing with Section
11 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and
12 Safety Code, or as otherwise provided by local ordinance; provided
13 the assistance includes not less than the equivalent of four months'
14 rent and moving expenses and comparable replacement housing
15 consistent with the moving expenses and comparable replacement
16 housing required pursuant to Section 7260, (III) the local
17 government requires that any displaced occupants will have the
18 right to reoccupy the rehabilitated units, and (IV) the unit has been
19 found by the local government or a court to be unfit for human
20 habitation due to the existence of at least four violations of the
21 conditions listed in subdivisions (a) to (g), inclusive, of Section
22 17995.3 of the Health and Safety Code.

23 (ii) The rehabilitated unit will have long-term affordability
24 covenants and restrictions that require the unit to be available to,
25 and occupied by, persons or families of low- or very low income
26 at affordable housing costs for at least 20 years or the time period
27 required by any applicable federal or state law or regulation.

28 (iii) Prior to initial occupancy after rehabilitation, the local code
29 enforcement agency shall issue a certificate of occupancy indicating
30 compliance with all applicable state and local building code and
31 health and safety code requirements.

32 (B) Units that are located in a multifamily rental housing
33 complex of four or more units, are converted with committed
34 assistance from the city or county from nonaffordable to affordable
35 by acquisition of the unit or the purchase of affordability covenants
36 and restrictions for the unit, are not acquired by eminent domain,
37 and constitute a net increase in the community's stock of housing
38 affordable to low- and very low income households. For purposes
39 of this subparagraph, a unit is not converted by acquisition or the

1 purchase of affordability covenants unless all of the following
2 occur:

3 (i) The unit is made available at a cost affordable to low- or
4 very low income households.

5 (ii) At the time the unit is identified for acquisition, the unit is
6 not available at an affordable housing cost to either of the
7 following:

8 (I) Low-income households, if the unit will be made affordable
9 to low-income households.

10 (II) Very low income households, if the unit will be made
11 affordable to very low income households.

12 (iii) At the time the unit is identified for acquisition the unit is
13 not occupied by low- or very low income households or if the
14 acquired unit is occupied, the local government has committed to
15 provide relocation assistance prior to displacement, if any, pursuant
16 to Chapter 16 (commencing with Section 7260) of Division 7 of
17 Title 1 to any occupants displaced by the conversion, or the
18 relocation is otherwise provided prior to displacement; provided
19 the assistance includes not less than the equivalent of four months'
20 rent and moving expenses and comparable replacement housing
21 consistent with the moving expenses and comparable replacement
22 housing required pursuant to Section 7260.

23 (iv) The unit is in decent, safe, and sanitary condition at the
24 time of occupancy.

25 (v) The unit has long-term affordability covenants and
26 restrictions that require the unit to be affordable to persons of low-
27 or very low income for not less than 55 years.

28 (C) Units that will be preserved at affordable housing costs to
29 persons or families of low- or very low incomes with committed
30 assistance from the city or county by acquisition of the unit or the
31 purchase of affordability covenants for the unit. For purposes of
32 this subparagraph, a unit shall not be deemed preserved unless all
33 of the following occur:

34 (i) The unit has long-term affordability covenants and
35 restrictions that require the unit to be affordable to and reserved
36 for occupancy by persons of the same or lower income group as
37 the current occupants for a period of at least 40 years.

38 (ii) The unit is within an "assisted housing development," as
39 defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) Notwithstanding paragraph (3), any city or county that uses funding from its Low and Moderate Income Housing Fund, pursuant to Section 33334.3 of the Health and Safety Code, within a redevelopment project area, as defined in Section 33320.1 of the Health and Safety Code, for purposes of substantially rehabilitating a unit, as specified in subparagraph (A) of paragraph (2), may count the unit towards meeting its share of the regional housing need for affordable housing, as defined in Section 65584, for low-, very low, or extremely low income households.

~~(4)~~

(5) For purposes of this subdivision, “committed assistance” means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. “Committed assistance” does not include tenant-based rental assistance.

~~(5)~~

(6) For purposes of this subdivision, “net increase” includes only housing units provided committed assistance pursuant to

1 subparagraph (A) or (B) of paragraph (2) in the current planning
2 period, as defined in Section 65588, that were not provided
3 committed assistance in the immediately prior planning period.

4 (6)

5 (7) For purposes of this subdivision, “the time the unit is
6 identified” means the earliest time when any city or county agent,
7 acting on behalf of a public entity, has proposed in writing or has
8 proposed orally or in writing to the property owner, that the unit
9 be considered for substantial rehabilitation, acquisition, or
10 preservation.

11 (7)

12 (8) On July 1 of the third year of the planning period, as defined
13 by Section 65588, in the report required pursuant to Section 65400,
14 each city or county that has included in its housing element a
15 program to provide units pursuant to subparagraph (A), (B), or (C)
16 of paragraph (2) shall report in writing to the legislative body, and
17 to the department within 30 days of making its report to the
18 legislative body, on its progress in providing units pursuant to this
19 subdivision. The report shall identify the specific units for which
20 committed assistance has been provided or ~~which~~ that have been
21 made available to low- and very low income households, and it
22 shall adequately document how each unit complies with this
23 subdivision. If, by July 1 of the third year of the planning period,
24 the city or county has not entered into an enforceable agreement
25 of committed assistance for all units specified in the programs
26 adopted pursuant to subparagraph (A), (B), or (C) of paragraph
27 (2), the city or county shall, not later than July 1 of the fourth year
28 of the planning period, adopt an amended housing element in
29 accordance with Section 65585, identifying additional adequate
30 sites pursuant to paragraph (1) of subdivision (c) of Section 65583
31 sufficient to accommodate the number of units for which
32 committed assistance was not provided. If a city or county does
33 not amend its housing element to identify adequate sites to address
34 any shortfall, or fails to complete the rehabilitation, acquisition,
35 purchase of affordability covenants, or the preservation of any
36 housing unit within two years after committed assistance was
37 provided to that unit, it shall be prohibited from identifying units
38 pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the
39 housing element that it adopts for the next planning period, as

- 1 defined in Section 65588, above the number of units actually
- 2 provided or preserved due to committed assistance.

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