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June 11, 2024

The Honorable Senator Glazer
Member, California State Senate
1021 O St., Ste. 7520
Sacramento, CA 95814

**RE: AB 1886 (Alvarez) Housing Element Law: Substantial Compliance
Notice of Opposition**

Dear Senator Glazer,

The City of Brentwood regrettably must oppose measure **AB 1886 (Alvarez)**, because it turns its back to a fundamental provision of housing element law: A city may disagree with HCD; explain why its housing element is in substantial compliance with the law; and then adopt that housing element which is thereafter considered “in substantial compliance with housing element law.”

For decades, cities have worked with HCD to draft housing plans that accommodate their fair share of housing at all income levels. These extensive and complex plans can take years to develop, include public involvement and engagement, and environmental review. Cities go to great lengths to ensure that their housing element substantially complies with the law, even if HCD disagrees. Current law acknowledges this fact by allowing cities to “self-certify” their housing element or take the issue to court and have a judge make the final determination of substantial compliance.

AB 1886 encourages “builder’s remedy” projects by eliminating self-certification for the purpose of what it means to have a housing element “in substantial compliance with the law.” The “builder’s remedy” allows a developer to choose any site other than a site that is identified for very low-, low-, or moderate-income housing, and construct a project that is inconsistent with both the city’s general plan and zoning. AB 1886 facilitates such projects for those cities that have a good faith disagreement based in substantial evidence.

The City had several difficulties in getting its 6th Cycle Housing Element approved by HCD. For example, the City received vague comments that HCD’s first reviewer was unable to explain; therefore, the City had to wait for the second reviewer to clarify, which added additional time to the process. The City was also promised a mid-review consultation by the second reviewer; however, the City contacted the second reviewer multiple times during the review process and they did not respond until the review was complete. Again, this resulted in increasing the length of time the City needed to respond to HCD’s comments.

The City self-certified its housing element and adopted findings that the housing element was in substantial compliance with the law in March 2023 and it took two more rounds of review for HCD to confirm in April 2024 that the City's housing element was in substantial compliance with the law. It was clear from multiple conversations with HCD staff that HCD staff does not share cities' goals of completing the housing element process quickly and efficiently.

The City of Brentwood believes that AB 1886 is counterproductive. What is really needed is for HCD to partner with cities to provide meaningful direction that helps them finalize their housing elements and put those plans to work so that much needed housing construction can occur. For these reasons, the City of Brentwood must **oppose AB 1886 (Alvarez)**.

Sincerely,



Joel R. Bryant
Mayor

cc: Honorable David A. Alvarez via Legislative Position Letter Portal
William Weber, Assembly Republican Caucus
Linda Rios, Senior Consultant, Assembly Committee on Local Government
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