

'Inclusionary Zoning' Bill Riles Apartment Associations

Senator Alan Lowenthal Supports SB 184, While Opposing Groups Call Legislation 'Rent Control'

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A new bill that recently made its way to the Senate floor has created a backlash from realtor and apartment owner associations that say it would do nothing more than discourage new development and penalize property owners. Supporters, however, say the legislation merely confirms what's already on the books.

The bill, SB 184, refers to what's called "inclusionary zoning," where counties and cities across California impose ordinances on developers as a condition of development, which may include providing affordable housing units for low-income residents or owners.

Many municipalities, including Long Beach, have imposed such ordinances, where developers often are charged fees if they don't set aside a percentage of below market rate units, usually requiring anywhere from 5 to 10 percent, as a means to build more diverse communities.

The California Rural Housing Coalition's database shows 140 jurisdictions in California currently have mandatory inclusionary zoning ordinances that vary widely in the percentage and depth of affordability and in the options through which a developer may choose to comply, according to an analysis of the bill. Some say that cities provide voluntary incentives or allowances for builders that comply. Others say it's merely a wash, and eventually comes out to a charge on developers.

The proposed bill, authored by California Senator Mark Leno, essentially supersedes a recent court decision in 2009, where developer Jeff Palmer sued the City of Los Angeles. The courts upheld a previously passed law called The Costa-Hawkins Act of 1995, which some say already exempts placing price restrictions on new construction. If passed, "the bill would allow a county or city under the state's planning and zoning law to impose inclusionary housing requirements," according to the bill analysis.

However, the California Realtors Association, the Los Angeles Apartment Owners Association and the Apartment

Association, California Southern Cities have voiced opposition to the bill, calling it nothing more than another form of "rent control," that comes with the same, if not worse, ramifications and discourages new development.

Despite calls and e-mails against the bill, State Sen. Alan Lowenthal recently made the determining vote in favor of the proposed legislation before the Senate Transportation and Housing Committee. John Casey, Lowenthal's chief of staff, said the bill now has a time frame of May 16 to June 3 to be taken up by the Senate and then passed on to the State Assembly. The bill only applies to new development and wouldn't affect existing property owners. If passed, the bill wouldn't go into effect until about a year, he said.

Casey contends the bill merely allows local cities and counties to do what they've already been doing and it wouldn't change what's already in practice. Rent control, he said, is something entirely different than inclusionary mandates, and the associations are basing their opposition on ideologies. "This is a very ideological issue to sum up, but I think the way that they're spinning it is completely out of control and wrong," he said. "This isn't expanding anything that already hasn't been taking place for the past several years." The legislature has a long history of supporting inclusionary zoning ordinances, he added.

On the other hand, Ron Kingston, a lobbyist for the Apartment Association, Southern California Cities, strongly disagrees. He said, "Inclusionary zoning is just a buzz word for price control or rent control," with even worse impacts that can affect the housing market. Imposing inclusionary zoning laws in some instances binds property owners to the below market rates and conditions for 30 to 50 years, he added.

Further, he said, "There's no confusion that the Costa Hawkins Act preempts inclusionary zoning . . . This is perhaps one of the biggest impediments ever for building rental housing, which is setting price controls on new construction." ■