

PROPOSED SB 50 AFFORDABLE HOUSING STANDARDS

SUMMARY

On February 5, 2019, a statewide network of organizations working on affordable housing and equitable development submitted a proposal to Senator Wiener's office for a meaningful and workable affordable housing program in SB 50. This proposal, described below, is grounded in proven value capture principles and builds from existing state law. The proposal is balanced, adjusting the affordability obligations depending on the actual new density created by SB 50 on a project-by-project basis. It accounts for the challenges in applying affordability standards across different regions and markets in California by building off of an already existing statewide model. It also ensures simplicity and feasibility by establishing tiers with minimum and maximum required affordability. Notably, it will create new units affordable to Extremely Low Income households, resulting in new housing not being produced by any other state zoning program and ensuring affordable housing options for those most vulnerable to homelessness. This proposal complements additional recommendations provided to Senator Wiener that can solidly ground SB 50 in equity through strong anti-displacement measures and provisions protecting sensitive communities.

PROBLEM

California is in the midst of an unprecedented and unconscionable affordable housing crisis.

California is facing a shortfall of 1.5 million affordable rental homes, with the state's lowest-income renters spending 66% of income on rent. (California Housing Partnership Corporation, April 2018). More than 134,000 people experience homelessness in California on a given night—nearly one-quarter of the entire nation's homeless population. Market rate housing, alone, will not solve this problem, and in many communities, building exclusively market rate housing without corresponding affordability and tenant protections will exacerbate the crisis. To ensure that our communities are developed for *all* Californians, upzoning policies must be paired with significant affordability provisions that strengthen and don't undermine local programs, along with full protections against displacement for renters.

The current draft of SB 50 does not specify affordability standards.

SB 50 would grant eligible projects an "equitable communities incentive," which includes a waiver of any maximum controls on density, reduced or eliminated parking requirements, and additional incentives and concessions. Depending on proximity to rail, certain eligible projects would also receive a waiver of maximum height requirements up to 45 or 55 feet, and a waiver of maximum FAR requirements up to 2.5 or 3.25. Allowable height could be increased even further with the use of an incentive or concession. Put simply, SB 50 would enable a significant increase in the number of allowable housing units and a much larger overall allowable building envelope for many properties across the state. This would confer enormous new value to covered properties.

Sound public policy requires that the substantial value created by these density increases be used, at least in part, to provide meaningful affordable housing. In the midst of an unprecedented and devastating affordable housing crisis, the state must ensure that any upzoning legislation will contribute to solving the problem, not worsening it. This means aligning the incredibly valuable density increases provided by SB 50 with standards for meaningful onsite affordable housing, as proposed below. The current draft of SB 50 gives a nod to an affordable housing contribution, but the exact affordability requirements are not yet specified.

SOLUTION

Guiding Principles

- An “equitable communities incentive” must lead with equity and include meaningful affordability.
- As a value capture policy, the affordability required under SB 50 should correspond to the amount of additional value conferred to a project. Because SB 50 provides for an increase in height and FAR up to a limit, but does not alter the *base* density, the additional value created by SB 50 will vary from project to project. Therefore, there should be different levels of affordable housing requirements depending on the actual density increase created by SB 50 for each project.
- State density bonus law is the only existing *statewide* law that aligns density increases with affordable housing. SB 50 should build off this existing sliding scale formula.
- Because SB 50 enables new development to leverage the value of public investment in transit infrastructure, while providing even more generous parking incentives than existing state density bonus law, SB 50 inclusionary rates should exceed density bonus requirements.
- Because many California families do not make enough to afford LI and VLI housing costs, and because there is a dramatic shortfall in housing options for this growing population, SB 50 inclusionary rates should include a required set-aside for ELI households.

Proposal

1. Every SB 50 project of 10 or more units will have a particular “density increase” - the percent increase in the number of units proposed within the SB 50 standards, over the number of units that would be allowed by the underlying zoning (a percent increase in the number of allowable units).
2. Establish three tiers of density increase: (1) up to 50%; (2) 51%-80%; and (3) greater than 80%.
3. In each tier, the required minimum set-aside will be: (a) the amount of affordable units that would be required if the density bonus law sliding scale percentages are extended by formula upwards beyond 35%; plus (b) an additional 5% of the total project for ELI units.

Density increase	On-site Affordable Housing Contribution
Up to 50%	11% VLI OR 20% LI*; AND 5% ELI** (total: 16% or 25%)
51% - 80%	16% VLI OR 28% LI*; AND 5% ELI** (total: 21% or 33%)
Greater than 80%	18% VLI OR 30% LI*; AND 5% ELI** (total: 23% or 35%)
* These percentages are derived from the existing state density bonus law sliding scale formula, converted to an equivalent percentage of total project (see methodology steps 1 and 2). ** This represents an additional affordability contribution, beyond state density bonus law, commensurate with the additional value created by the SB 50 super density bonus.	

4. Nothing prevents a project from voluntarily providing more affordability (e.g., 100% AH projects).
5. To qualify for SB 50, projects of less than 10 units will provide a fee, dedicated for affordable housing.
6. Affordable housing contribution should exceed what is already required by a local inclusionary ordinance. *Proposed language forthcoming.*

Methodology

Our SB 50 affordable housing proposal is grounded in a logical approach that draws on existing proven statewide programs, addresses pressing statewide needs, and ensures certainty and feasibility.

Step 1. Extend Density Bonus Law Sliding Scale. Because state density bonus law (DBL) already applies to every jurisdiction in the state, it is a logical starting point when creating a new statewide value capture program. DBL aligns density with affordability along a sliding scale. The scale starts with a 20% density increase, which can be accessed by providing either 5% Very Low Income (VLI) units, or 10% Low Income (LI) units. From there, a project would receive a 2.5% density increase for each additional 1% increase in VLI units, or a 1.5% increase in density for each 1% increase in LI units. DBL is capped at a 35% density increase, but we can easily extend this sliding scale.

Step 2. Convert to a Percent of Total. DBL applies the affordability percentage to the base project, before any density bonus is added. As a result, the DBL affordability percentages do not reflect the actual percentage of affordable housing in the final project. To convert the DBL sliding scale from percent of base to percent of *total*, we simply divide the DBL percent of the base by 1.XX, where XX = the percent density increase. This gives us the same overall affordability contribution as the DBL sliding scale would require for a given density increase, but reflected as a percent of the final project.

Step 3. Simplify the DBL Sliding Scale into Tiers. Any density increase could be assigned a corresponding affordability requirement using the sliding scale formula described above. However, a tier system is easier to understand and implement. By creating tiers in SB 50, developers and stakeholders can look at the law and know how much affordable housing will be included in a project without doing a series of calculations. A tier system also creates a de facto minimum and maximum required affordability contribution. We propose three tiers of density increase: (1) 0-50%; (2) 51-80%; and (3) greater than 80%. For any SB 50 project, the “density increase” would equal the percent increase in the number of units proposed under SB 50 over the number of units that would be allowed under the base zone. For any SB 50 project, this “density increase” would situate the project within one of the three tiers above.

Step 4. Enhance the Affordable Housing Rates in Each Tier to Account for the Additional Value Created by SB 50. SB 50 confers significantly more value to a project, especially in the form of parking reductions, than does DBL. Therefore, SB 50 affordability standards should be greater. But rather than just increasing the percentages, SB 50 should also address the increasing need for units affordable to Extremely Low Income (ELI) households. Adding an ELI contribution *in addition to* the DBL sliding scale percentages achieves several key objectives: (a) it gives developers some flexibility in meeting affordability standards; while (b) ensuring an ELI contribution in each project; and (c) establishing overall affordability rates that slightly exceed the DBL formula. To do this, in each tier, we simply require that a project provide 5% of the total units affordable to ELI households, in addition to the corresponding state DBL sliding scale VLI or LI contribution for that tier.

Examples

Project A: Assume site with a base zone that allows 56 units, and SB 50 standards allow 100 units

Project B: Assume site with a base zone that allows 100 units, and SB 50 standards allow 188 units.

Project C: Assume base R2 (duplex) zone, but SB 50 standards allow 18 units.

	SB 50 affordability rate	Total affordable units
Project A	16% VLI or 28% LI ; and 5% ELI.	16 VLI units or 28 LI units; and 5 ELI units (21 ELI+VLI units or 33 ELI+LI units total)
Project B	18% VLI or 30% LI; and 5% ELI.	34 VLI units or 57 LI units; and 10 ELI units (44 ELI+VLI units or 67 ELI+LI units total)
Project C	18% VLI or 30% LI; and 5% ELI.	4 VLI units or 6 LI units; and 1 ELI unit (5 ELI+VLI units or 7 ELI+LI units total.)