CASA Production Working Group
Overview of housing and fiscal policy problem for CASA and Outline of Future Action Plans

Overview:

The housing crisis is severely exacerbated by fiscal and tax policy structures in California that create powerful economic disincentives to zone and approve housing projects, and a virtual inability to provide sufficient subsidy to write-down the cost of housing so that it can be affordable to more Californians. Additionally, the state tax rules severely limit the authority of cities to raise revenue for public goods and services, leaving cities with limited tools to support the expanding infrastructure and services that come with growth.

Fiscal Zoning and Development Impositions eliminate viable land for housing and contribute to driving up costs beyond what people can afford

In many communities, the share of property tax received locally hovers around 10%, such that new housing property tax payments are widely found to be insufficient to provide desired levels of public services including schools, parks, roads, libraries, and affordable housing. This leads communities to limit their zoning for housing for fiscal reasons so they can balance their budgets from commercial land uses with a strong bias towards retail and hotel uses that direct their sales and transient occupancy taxes directly to local government (fiscal zoning). This also leads communities to
Impose tens if not hundreds of thousands of dollars of mitigations and impact fees for public works and community facilities, community benefit requirements, and community benefits.

The high price of entry for new housing ***(Terner Center, 2018, It all Adds Up)***

Due to California tax laws, new market entrants are charged a confusing and ever-changing array of impact fees, community benefits, connection charges, etc that amount to high "entrance fees", akin to country club dues, to enter existing communities. New housing is expected at building permit issuance (or reasonably soon thereafter) to pay up front to solve all the potential long term issues that new housing brings to the community, as well as pay ongoing property taxes at much higher rates than existing neighboring residents (which used to be relied upon to pay for long term costs on a less punitive annualized basis). The high initial and frequently re-renegotiated and every rising impact fees/mitigations/benefits both reduces the number of feasible housing deals overall and directs a greater share of limited public funds for affordable housing away from critical housing towards other public goods charged in the form of impact fees. Rising impact fees and rising costs in general also lead developers to cut costs in the few places where they can control them and is a contributor to the diminished reliance of union contractors in the residential construction industry for mid-rise and even some high rise buildings which further exacerbates the construction labor shortage and increases costs.

CASA is considering capping impact fees and locking fees and rules at project application completeness to reduce the fee burden overall and eliminate the practice of 11th hour demands for "more" from individual housing proposals that results in less housing overall. **While this will enable more feasible housing deals that will result in more housing at all income levels, it does not solve the fiscal problem for cities.**

Housing Does Not Pay For Itself-Fiscal Zoning

Fiscal zoning is the term used to describe a reliance on any land use (but housing) to help balance the budget. Fiscal zoning in effect removes many potentially desirable housing sites from ever being considered for any form of housing including low density often single story office parks, retail centers, and low density commercial areas that may be located on critical transit corridors. Fiscal zoning provides major tax and revenue rewards from zoning to prevent housing development—and is a major cause of the Bay Area's jobs/housing imbalance by rewarding local agencies for much higher rates of commercial land use development and job growth and punishing them for expansive housing growth.

CASA has considered proposals to re-zone commercial sites for housing uses for an emergency period of 15-years to help diminish the harmful effects of fiscal zoning on housing. But if new housing is reduced as a primary source to finance infrastructure and capital projects, a local funding need is created that must be filled elsewhere for local governments to function and provide desired levels of services.

The High Cost Of Housing Construction In A Period of Flat Income Growth Means New Housing Cannot Afford To Create More Inclusion Without Economic Offsets for the Additional Cost of Added Affordability

CASA's Regional Inclusionary Policy –designed to create inclusion and more feasible housing deals that are inclusive--includes recommendations that affordable deed restricted units must be taxed at their affordable price not their market value (a reduction of potentially $500,000/unit or more in taxable value with commensurate loses in tax revenue over time). CASA is further recommending that to improve workforce stability, increase housing production overall with affordability that SB35 be expanded to work in more locations by pairing it with 15-years of tax abatement modeled on other areas of the US that require a labor package with on-site affordability so that this combination does not suppress production. These additional CASA recommendations could have the unintended consequence of fiscally punishing cities that are attempting to add more housing while their neighbors providing less or less affordable housing feel no direct economic outcomes.

Dire need for housing subsidy

Cities cannot suffer consequences, such as a loss of local control or funding, for failing to advance affordable housing production when they lack the fiscal resources to support non-market housing options.

The elimination of local redevelopment and the diminishment of State and federal housing funding, combined with the dramatic increases in the cost of producing housing, the need for subsidy has increased not only for a wide range of urgently needed housing programs to create more deed-restricted affordable housing new developments, to buy existing affordable projects and maintain their affordability, for emergency homeless housing, tenant protection programs, home ownership assistance programs, and even missing middle housing.

CASA must identify sources to create significant, transformative new sources of housing subsidy so that new housing production can serve the range of new housing needs.

In addition to the dire need for affordable housing subsidy, CASA must work to identify revenue to effectively implement Protection Committee ideas, namely what are mechanisms that could help fund tenant protection programs and services? (such as Legal Counsel, Emergency Financial Assistance, Rent and Evictions Registry, Relocation Assistance). Ideally mechanisms that generate revenue while also reducing speculation.

CONCLUSION: Fiscal policy has significantly contributed to the long term suppression of housing supply and must be unraveled for cities to WANT housing production again, especially affordable housing, to reduce reliance on impact fees and 11th hour impositions that make proposed housing projects inviable, and for housing in the Bay Area to be enthusiastically pursued at every level of government versus other more tax enriching land uses. Furthermore, significantly greater dollars must be generated and dedicated to a wide range of Production, Preservation, and Protection programs for them to work and serve thousands of needy Bay Area families.

Without the willing and motivated participation of cities to encourage more housing, and pay to subsidize affordable housing, over the next decades local governments who must act to approve and create more housing options will continue to resist for fiscal reasons. Without shifting funds to cities building housing, CASA's "more housing/more inclusion" recommendations will either not work over the long haul, or have the perverse consequence of punishing local governments trying to "do the right thing on housing" by adding more housing and more affordability requirements and failing to impose fiscal consequences on jurisdictions that continue to resist and suppress housing development.

CASA ACTION PLANS IDEAS FOR PRO-HOUSING FISCAL POLICY:

CASA'S membership vetted the ideas below in a single session with Fred Silva, tax policy adviser to CalForward and is recommending further study of the most initially viable ideas. We further recommend that these fiscal action plan recommendations be evaluated by expert fiscal policy team (such as Fred Silva) to determine (1) their potential fiscal results (2) their potential for solving the problems identified above (3) the steps needed to achieve them (4) an analysis of who pays, specifically include equity and regressive/progressive nature of fiscal proposals.

I. Property Tax Policy Ideas to encourage more housing

a. **REGIONAL PROPERTY TAX INCREMENT CAPTURE AFTER 2019 BASE YEAR**-take small % of all increment generated in 9-County Bay Area and distribute to local agencies building housing for housing-related costs and infrastructure investments to replace some of the lost to reduced taxes on affordable units and reduced mitigation impact fees.

   The increment generation "project area" is entire 9-County Bay Area, so that areas producing more jobs than housing will equally contribute a % of their tax base with jurisdictions producing more.

   Tax dollars, tax increment funding paid to local agencies ON A PER UNIT BASIS for units delivered, at an increased rate for affordable units delivered to equalize tax effect of market rate and affordable housing production and to incentivize inclusionary policies

b. **Tax refunds/repatriation based on housing unit deliveries**

The State currently, for example, requires "ERAF" reductions. Perhaps these or other tax dollars should be distributed to cities based on housing unit deliveries to get them closer to the % of tax dollars needed to make housing fiscally neutral. State should reimburse local agencies for Welfare Exemption and

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c. **Prop 13 reform to normalize California property tax law consistent with other coastal states in the US with growing population and job centers.**

II. **Fiscal consequences for Housing Suppression**

a. Insert provisions in all transportation or other State and regionally distributed funds restricting them by at least 50% for local agencies that suppress housing production through any of the following, funding to be paid to Regional Housing Fund for affordable production subsidy

- Restrict issuance of building permits under a local growth control measure or have downzoned or reduced the residential density of any residential or commercial district in the last 5 years
- Have adopted an ADU ordinance more restrictive than State standards
- Do not have an approved Housing Element
- Impose impact fees including special district fees that are higher than 50% of State wide average (or find some other way of establishing a fair impact fee level that does not discourage housing production like a fee cap/sqft)
- Impose higher than Regional Inclusionary standard on private land without public subsidy or other public assistance that
- Have denied or reduced density of any Housing Element site or density bonus project
- Are not increasing their residential building permit issuance annually for the next 15 years by at least 5% for all types of housing
- Regional or sub-regional unmet RHNA obligations for cities

b. Consider "fees" charged to local agencies that

- Fail to meet RHNA and have added far more jobs than housing
- A jobs/housing linkage fee to jurisdictions that have added more jobs than housing, with money dedicated to affordable housing in supportive jurisdictions in close proximity to growing industries.

III. **Major Bay Area regional affordable housing fund to fund/encourage affordable housing. Potential new taxes to deposit in regional housing fund for housing subsidy and housing-related infrastructure:**

a. **Sales tax override**

- special authorization for an eight, quarter, or half cent tax by the state to a regional "entity" specifically for housing that is above and beyond the already authorized sales tax percentage authorized for cities.

b. **Commercial activity tax/fee** on companies over a minimum size. Could be comprised of one of the following
   - Gross receipts tax focused on high profit companies driving housing demand
   - Tax based on # employees (head tax)
   - Commercial development housing impact fee that does not discourage job growth or business expansion

c. **Regional bond measure modeled on RM3**

IV. <u>The following Taxes that can encourage better use of scarce housing resources, proceeds could flow to affordable housing subsidy programs locally or regionally. Level of difficulty may exceed fiscal benefits (TBD)</u>

Vacant unit taxes	Underutilized land tax	Energy extraction fee (oil/gas)
Second home tax	Luxury home tax	Vacant land tax
Air BB taxes (TOT)	Foreign buyer tax	Regional TOT

Real property transfer tax ($1.5M and above)