

Elements of the CASA Compact
Draft Term Sheets
Wednesday, November 7, 2018

1. Just Cause Eviction Standards
2. Emergency Rent Cap
3. Right to Legal Counsel in Eviction Proceedings
4. Streamlining for ADUs and Tiny Homes
5. Minimum Zoning for Housing Near Transit
6. Effective and Fair State Housing Streamlining Laws
7. Public Land for Housing Production
8. Streamlining of Local Housing Approval Process
9. Regional Housing Enterprise
10. New Revenue to Implement the Compact

Compact Element #1: Just Cause Eviction Standards

Desired Effect: Just cause would protect tenants from arbitrary evictions. Studies show that eviction can cause health issues, emotional trauma, school disruptions for children, longer and more costly commutes and reduced wage earnings for adults. By preventing no-cause evictions, just cause eviction protections promote tenant stability—particularly in low vacancy and expensive housing markets—and limit eviction-related monetary, health, school and other costs. Eviction-related costs can pose a particular burden for tenants who are low and fixed income, have physical disabilities, or are elderly.

Scale: State legislation applied to 9 Bay Area counties

Models:
New Jersey statewide Just Cause Law; Large cities in CA (SF, Oakland, San Jose, LA)

References:
Action Plan 2.1

Negotiation Points:
Definition of permissible causes for eviction, define property types excluded, discuss relocation assistance; means of enforcement

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Permissible causes for eviction	<p>Fault:</p> <ul style="list-style-type: none"> • Failure to pay rent • Substantial breach of a material term of the rental agreement • Nuisance • Waste • Illegal conduct <p>No fault:</p> <ul style="list-style-type: none"> • Owner-Move-In (OMI) or Relative-Move-In (RMI) • Withdrawal of unit from rent or lease market (e.g., Ellis Act/condominium conversion) 	<p>Definition of:</p> <ul style="list-style-type: none"> • Nuisance • Illegal conduct 	

	<ul style="list-style-type: none"> • Unit Unsafe for Habitation: Recovery of unit for health and safety reasons • Demolition or substantial rehabilitation 		
Coverage	<p>Applies to all rental units except the following:</p> <ul style="list-style-type: none"> • Government owned and government subsidized housing units (e.g., Section 8) • Transient and tourist hotel occupancy as defined in Civil Code Section 1940(b) • Housing accommodations in a nonprofit hospital, convent, monastery, church, religious facility, or extended care facility • Dormitories owned and operated by an institution of higher education or a high school or elementary school • Unit where tenant shares a bathroom or kitchen facility with the owner who maintains their principal residence there • Single owner-occupied residences including when the owner-occupant rents or leases 2 units (including ADU and JADU) or bedrooms <p>In the event that a local ordinance conflicts with a state or federal ordinance, the others should prevail. All restricted housing is exempt from any fees that might be levied by the localities to implement this program or cap to some nominal amount.</p>	<ul style="list-style-type: none"> • Resident-owned nonprofit housing 	
Notice Requirements	<p><u>Tenant Rights</u>: The owner must provide notice to tenants at the beginning of each tenancy as to tenant rights with copy of lease. This notice should be in the form of a lease addendum that is signed by the tenant at the time the lease is signed.</p> <p><u>Evictions</u>: The grounds for eviction must be set forth in the notice to terminate tenancy.</p> <ul style="list-style-type: none"> • If the reason for the termination is for cause, the owner must provide an initial notice with an opportunity to cure before the notice of termination. This should only be for insufficient funds, nuisance or other types of curable lease violations. If the lease violation is related to 	<p>☐ If the reason for termination triggers relocation benefits, then the notice must include that the tenant is entitled to a relocation fee of the amount then in effect</p>	

	specific illegal activity of presents the potential for harm to other tenants, there should not be a right to cure. Separate provisions should be made for domestic violence situations.		
Relocation Assistance	<p><u>Eligibility</u>: Applies to all no-fault causes.</p> <p><u>Timing</u>: Provided directly to the tenant at the time of service of the notice to quit.</p> <p><u>Notice</u>: The landlord shall notify the tenants of their rights under this section at the time of service of the notice to quit.</p>	<ul style="list-style-type: none"> If the reason for termination triggers relocation benefits, then the notice must include that the tenant is entitled to a relocation fee of the amount then in effect <p><u>Amount</u>:</p> <p><i>Option 1</i> (set amount per tenant household): A set amount per tenant household, e.g. \$15,000. (<i>See, e.g.,</i> Berkeley \$20k). Berkeley is too expensive, San Jose has a tiered relocation option based on bedroom size that is much more reasonable.</p> <p><i>Option 2</i> (multiple of month's rent): Could tier by landlord size (e.g. if landlord owns 4+ units or under 4 units). (<i>See e.g.,</i> Glendale, Mountain View)</p> <p><i>Option 3</i> (set amount by unit size): (<i>See, e.g.,</i> Beverly Hills, Oakland, San Jose, Santa Monica, West Hollywood, for models)</p> <p><i>Option 4</i> (set amount by bedroom): San Jose</p> <p>Annual increases</p>	
Enforcement		Enforcement-How to provide information to landlords	

Preemption of Local Ordinances	This law does not preempt more restrictive local ordinances.		
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Compact Element #2: Emergency Rent Cap

Brief Summary: Establishes reasonable annual increases in rent.

Desired Effect: High impact. An emergency rent cap would prevent extreme rent increases in rent on a year-to-year basis, thereby decreasing the number of households who are at risk of displacement and homelessness, decreasing the number of households who are rent burdened, and promoting tenant and community stability. Extreme rent increases can pose a particular burden for tenants who are low and fixed income. Can be extended

Scale: State legislation applied to 9 Bay Area Counties

Models: Existing State Anti-Gouging Law in States of Emergency (cite)

References: Action Plans Referenced: 1.1, 1.2, 1.3

Negotiation Points: Annual rent increase limits, vacancy decontrol, define property types excluded; limits on # of years increases can be banked and % of increases banked; enforcement mechanisms; duration: permanent program or tied to emergency declaration w/ sunset provisions

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Annual Rent Increase Limits	No landlord shall increase rent by more than the allowable increase, as defined below, in any year of tenancy (yearly increase).	<p><u>Percentage Increases:</u> Option 1: all units have rent increase caps, e.g. 5%+CPI</p> <p>Option 2: a different cap depending on age of unit, e.g. units 15+ years have CPI cap and newer units have 5%+CPI</p> <p><u>Term</u> Is there a sunset period?</p>	This applies whether or not Prop 10 passes. Costa Hawkins is irrelevant to state legislation and does not limit coverage in this instance
Vacancy Provision		Vacancy de/control Cap applies to renter not unit -	

Coverage		<i>In addition to exemption of nonprofit/government owned housing, dormitories, ADUs, are there other exceptions?</i>	Costa Hawkins is irrelevant to state legislation and does not limit coverage in this instance
Banking and Capital Improvements		Banking cap, cap on annual increases Formula for pass thrus and returns LL can bank 5 years of unused maximum Only increase rents 2x annual maximum eg. CPI+5x2	Some protections need to be in place so that landlords cannot "bank" an unreasonable amount of rent increases and then issue an exorbitant aggregated rent increase all at once.
Preemption of Local Ordinances	This law does not preempt more restrictive local ordinances.		
State of Emergency		What conditions need to exist for this to apply? Who declares the state of emergency? Determine if state of emergency garner any other tools to expedite housing (permitting, etc)	

Compact Element #3: Right to Legal Counsel for Eviction Proceedings

Brief Summary: All tenants facing eviction would have the right to legal counsel, leveling the playing field and protecting tenants from illegal evictions.

Desired Effect: Access to a lawyer can be the difference between losing a home and keeping it. Ensuring that all tenants facing eviction have the right to legal counsel would create a fairer justice system; prevent evictions and homelessness; improve health, stability and opportunity for thousands of residents, including children; and preserve existing affordable housing. With proper implementation, research suggests that the right to legal assistance for eviction proceedings can reduce evictions by 77% to upwards of 94% (according to a pilot program in California) and lead to a net savings for local jurisdictions. (e.g. in New York City cost savings are estimated at \$2 for every \$1 spent on legal assistance)

Scale: State legislation supported by regional funding

Models: SF Prop F passed in June, New York City

References: Action Plan 3.1

Negotiation Points: Funding source, identifying providers/administration; fees: means testing or sliding scale

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Coverage	All tenants who are faced with legal proceedings to evict them from their residence have the right to legal counsel except when eviction proceedings are brought by a landlord or master tenant who resides in the same dwelling unit or property with tenant. The region or city shall have no obligation to provide	What is forum for resolution?. Create separate renters court, regional or local? Means tested? At what range?	The term "legal representation" shall mean full scope representation provided to an individual by a designated organization or attorney which includes, but is not limited to, filing responsive pleadings, appearing on behalf of the tenant in court proceedings, and providing legal advice.

	<p>legal services where a state or federal program already provides full scope legal representation to a tenant facing eviction proceedings. Landlord obligation limited to providing an addendum notice of this rights in lease and eviction notice. Landlord has no payment or any other obligations. Tenant failure to exercise right to counsel will not impede eviction proceedings for landlord.</p>		
*Funding (alternative pathway to achieve right)	<p>Generate approximately \$50 million per year to fund regional right to legal counsel.</p>	<p>What happens in eviction where there is no \$ for attorney?</p> <p>Possible sources include a regional transient occupancy tax, a tax on short-term rentals and vacant units, and a regional mega-measure, among others.</p>	<p>Tenants Together’s recent report, <i>California Evictions Are Fast and Frequent</i> found the following 3-year averages for unlawful detainer filings by county: (1) Alameda - 5,467; (2) Contra Costa - 3,928; (3) Marin - 432; (4) Napa - 277; (5) San Francisco - 3,275; (6) San Mateo - 1,516; (7) Santa Clara - 3,515; (8) Solano - 2,321; and (9) Sonoma - 1,195, for a total of 21,926 unlawful detainer filings per year. It should be noted that this number does not include the number of eviction notices prior to the filing of unlawful detainer eviction lawsuits. Therefore, if the region were to provide a right to legal counsel, the number of cases could be much higher; however, as a counterpoint, a right to legal counsel would likely deter landlords from serving tenants with illegal eviction notices.</p>
Providers		<p>Option 1: Each city shall establish, run, and fully fund a program to provide legal representation for all tenants within the city who are faced with legal proceedings to evict them from their residence.</p>	<p>NYC’s has a coordinator who designates existing organizations that have “the capacity to provide legal services”</p>

		<p>Option 2: Each jurisdiction identifies local service providers to provide legal representation. Bay Area Metro distributes funds to local service providers from a regional pool. Bay Area Metro and local jurisdictions fund and conduct education efforts to notify residents of this right.</p> <p>Option 3: Bay Area Metro identifies and funds local service providers to provide legal representation. Bay Area Metro funds and conducts education efforts to notify residents of this right.</p>	Annual or bi-annual review of the program
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Compact Element #4: Remove Regulatory Barriers to ADUs and Tiny Homes

Brief Summary: Amend existing state ADU law to remove regulatory barriers to building including ministerial approval for ADUs and Junior ADUs in residential zones, allowance for multiple ADUs in multi-family homes, and creation of a small homes building code (AB 2890 Ting).

Desired Effect: Extremely High Impact; Short Term. Assuming 20% of 1.5 Million single family homes in Bay Area = 300,000 new homes distributed into existing neighborhoods. In PDAs alone would be 50,000 new homes. Distribute green, more affordable homes quickly and uniformly in region. State must reduce zoning barriers to: (1) Create significant, rapid increase in less costly homes including stabilizing vulnerable households including seniors, disabled, and lower income homeowners in all existing neighborhoods (Missing middle housing, Preservation); (2) Reduce GHG by improving utilization of buildings/land build more small, infill, low GHG/sustainable homes (3) ease codes for ADUs and Tiny Homes . Help expand and stabilize labor force and construction.

Scale: State legislation applied to 9 Bay Area Counties

Models: Arlington VA, Portland OR, Seattle WA, Vancouver BC, State of Oregon Tiny Homes Code, (Leslye's work)

References: Action Plans 10.3, 10.4
UCB Chapple 2015; UCB Turner Center 2017; Legislative history SB 1069, AB 2890

Negotiation Points:

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Ministerial Approval	Allow ministerial approval regardless of zoning standards for: <ul style="list-style-type: none"> Both an ADU and a Junior ADU (JADU), not required to be smaller than 800 sqft in any zone that allows residential uses; in existing or proposed structures including in rear yard cottage not to exceed 800 sqft , 16' tall , with 4' in side or rear yard setbacks 		

	<ul style="list-style-type: none"> Existing unused spaces in multi-family structures or yards may be converted to multiple ADUs. ADUs receiving ministerial permits cannot be rented for less than 30 days; subject to local non-zoning housing standards not addressed in this law Encourage non-safety code forgiveness Provide that remedies for successful project applicant legal challenge include same as in HAA. Apply HAA's provisions for determining project consistency (if there is substantial evidence to support a consistency determination it is deemed consistent) <p>Allow division of existing homes by 50% where ADU may be 800 sqft</p>		
Owner Occupancy	If Owner Occupancy locally required, reasonable annual monitoring based on published documents		
Impact Fees	Limit impact fees to (1) being charged on a per square foot basis and (2) only on net new living area over 500 sqft per accessory unit		
Small and Tiny Homes Building Code	<p>Create small homes building code to reduce non-safety code requirements that disproportionately make small homes and tiny homes infeasible including energy standards, appliance and room sizes, and similar.</p> <p>Life-safety standards must be upheld</p> <p>Use of unlicensed contractors under "owner builder" permits shall be discouraged by requiring a statement of owner liability be provided at time of building permit issuance under any small homes building code and any other building permits issued for ADUs.</p> <p>Sprinklers shall be required for ADUs if required under the building code for comparable home construction</p>		

Compact Element #5: Minimum Zoning for Housing

Brief Summary: Increase number of market rate and affordable homes near transit and MTC 5-Factor Areas on low density residential, commercial, and public sites with limited parking in a manner that fits in with existing neighborhoods and expands at a minimum missing middle housing (housing built to height of 36', 75% lot coverage, no parking, no density restrictions), to significantly increase overall housing production in areas targeted by Plan Bay Area and Sustainable Communities and consistency with new MTC 5-factor index.

Desired Effect: High Impact, Medium to Long term but essential to achieve compliance with PBA and SCS. Required precursor to increasing housing production of market rate, affordable, homeless, and all forms of housing.

Scale: State legislation applied to 9 Bay Area Counties

Models: Portland OR, Seattle WA pre-zoning infill neighborhoods

References: Action Plans Referenced: 8.2, 10.3, 10.5, 10.6
SB 827

Negotiation Points: Temporary delay provisions for communities of concern for 3-5 years; height for added density above missing middle to 75/80', define qualifying transit (bus, rail, ferry, major transit stop?); Refer to last draft of last printed version of sb 827 for all items except those not specified here.

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
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Density Requirements	<p>Modify concepts from last printed version SB 827 only as specified below</p> <ul style="list-style-type: none"> increase housing densities and create allow housing overlay (1 mile?) ½ miles “on Transit” (confirm definition) to permit housing uses on commercial and institutional land below a low allowed FAR (1.5) to a minimum missing middle or “Minimum Housing Density” . See definition of minimum housing density below. increase densities and create housing overlay on Transit to at least densities above. In areas closer to major transit corridors (rail corridors, ferry stations, major transit corridors) increase densities to minimum 50’ (up to 75’ with density bonus excepting that “Sensitive Communities” can delay this increased Transit Density for projects providing less than 50% affordable housing for up to 4 years at 120% of AMI or less but only if no plan adopted last 5 years ie no downzoning Sites occupied by a Mobile Home Park, Public Housing, or Single Room Occupancy built prior to Effective Date shall not be eligible for Minimum Density overlay Subject to Additional Terms from SB 827 (e.g. no net loss, etc.). No local action required under CEQA for this to take effect 	<p>Height for added density above missing middle</p> <p>Define qualifying transit (bus, rail, ferry, major transit stop?);</p> <p>Determine definition of “transit corridors”</p> <p>Determine reduced affordability levels outside “sensitive communities”</p> <p>Determine period of “deferred compliance” and expected planning densities on transit for completed plans.</p> <p>Map of sensitive communities</p>	<p>To broaden missing middle zoning, widen zoning overlay, add provision that housing overlay applies to disturbed commercial/institutional sites larger than 5 acres, with permitted FAR below 1.5, in urbanized areas (targets large non-performing low density retail, light industrial) outside of transit areas, with 0 parking minimum</p>
Definition Missing Middle Zoning	<p>* Missing middle standards: Local jurisdictions shall not adopt local zoning standards to limit density, require a minimum lot size, amount of parking or open space, or control the building location or envelope on a lot, except the following may be regulated:</p> <ol style="list-style-type: none"> Building height – Maximum allowed building height shall not be less than 36’ except in the rear 20’ of the lot where the maximum allowed building height may be reduced to 15’. Yard setbacks – Minimum required yard setbacks shall be no more than 10’ in the front, 5’ in the side, and 10’ in the rear [or no more than 3’ in the rear if the building height is 15’ or less]. Unit size – Maximum allowed unit size shall not be larger than 2,000 square feet. <p>Local agency may create demolition controls to preserve existing architectural character which shall allow remodeling, raising, relocating existing structures.</p>		

	<p>** High-density standards: Local jurisdictions shall not adopt local zoning standards to limit density, require a minimum lot size, amount of parking or open space, or control the building location or envelope on a lot, except the following may be regulated:</p> <ol style="list-style-type: none"> 1. Building height – Maximum allowed building height shall not be less than 55’ which may be increased to 75’ with the addition of the State Density bonus program. 2. Yard setbacks – Minimum required yard setbacks shall be no more than 10’ in the front, 4’ in the side, and 10’ in the rear. 	(see geography proposal)	
	<p>Expand upzoning beyond narrow focus on transit areas consistent with MTC analysis showing most appropriate locations for housing based on 5 objective factors: affordability; VMT reduction; resilience; access to opportunity; displacement</p> <p>Apply HAA’s provisions for determining project consistency (if there is substantial evidence to support a consistency determination it is deemed consistent). Provide that remedies for successful project applicant legal challenge include same as in HAA.</p>		

Compact Element #6: Improve Effectiveness and Fairness of State Housing Streamlining (SB 35)

Brief Summary: SB 35 was intended to streamline housing for projects with fully skilled and trained labor and on-site affordable amendments are needed to improve effectiveness so more projects to make use of this section to increase housing production. Amendments proposed:

- Allow reasonable local review including design review
- Allow smaller projects to access expedited review without added labor or affordability standards
- For larger projects add tax 15-year abatement (modeled on New York) and other offsets to pay for labor and affordable requirements
- Adjust liability standards to make more homes insurable. Home ownership cannot be achieved in infill buildings without modifying existing liability laws that prevent reasonable attached home ownership products because they are uninsurable. See AB 2353 (Frazier)

<p>Desired Effect: Projects that have labor standards should get the benefit of additional tools (benefits/offsets) to pay for living wage jobs. Pre-cursor to achieving expanded housing production with labor standards and on-site affordable throughout the region. Essential to easing construction labor shortage increasing number and predictability of high quality desirable construction jobs.</p> <p>In regions such as Cascadia which has more reasonable liability laws for ownership, up to 50% of attached housing new construction is in ownership forms. If the Bay Area could increase production by being able to offer homes for sale in addition to for rent, could increase overall housing production significantly. Also may be only way to create new home ownership opportunities in existing developed communities including in small missing middle type projects that could create more ownership opportunities at a range of incomes.</p>			
<p>Scale: State legislation applied to 9 Bay Area Counties</p>			
<p>Models: New York</p>			
<p>References: SB 35; Action Plans Referenced: 12.2, 12.3, 17.1, 17.2</p>			
<p>Negotiation Points: Deferrals for provisions for communities of concern regarding affordability levels, economic offsets and tools; confirm 15 year time period for real estate tax abatement; define: small project, affordability levels, limits/requirements on use of real estate abatement</p>			
Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Clarifications to Existing Law	<ul style="list-style-type: none"> Housing developments of less than 20 units or 20,000 square feet, are eligible for SB 35 expedited approvals without added affordability, wage, apprentice, or labor standards to reduce local planning workload on small but often controversial projects. SB 35 projects are exempt from CEQA Local jurisdictions retain authority to regulate demolition of historic structures excepting that historic status if any must have been identified prior to project application completeness. 	<ul style="list-style-type: none"> Precluded from considering impacts to views, privacy or solar access, except in the case of existing solar panels. Maximum number of required public hearings: 1 for projects with 5 units or less; 2 for projects with six to 20 units; 3 for projects with 20 units or more. 	

	<ul style="list-style-type: none"> • SB 35 projects subject to limited local discretionary review as follows: • 6 months and 1 de novo hearing for projects of 20 units or less • 12 months and 3 de novo hearings for projects larger than 20 units • Subject to HAA protections. • May not reduce the number of residential units otherwise permitted by the maximum allowed building envelope. • Precluded from considering impacts to views, privacy or solar access, except in the case of existing solar panels. • Provide that remedies for successful project applicant legal challenge include same as in HAA. • Apply HAA's provisions for determining project consistency (if there is substantial evidence to support a consistency determination it is deemed consistent) • Deferral option in Sensitive Communities: Local agency may elect in sensitive community designated areas to retain affordability levels for SB 35 projects remain at current law levels until community planning complete at which point affordability levels may change. 		
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Developer Incentives	<ul style="list-style-type: none"> • Cap impact fees on SB 35 projects to \$30 per square foot for over 500 square feet of net new living area • Add 15-year tax relief modeled on NY program to SB 35 projects “reverse redevelopment” • Make SB 35 projects eligible for an automatic 35% Density Bonus • For projects that use a skilled and trained workforce: 3-year statute of repose and liability requires showing of negligence in construction, i.e., no strict liability • Require licensed inspectors for plaintiffs and builders in construction defect cases to reduce the likelihood and size of class action like suits which prove to be timely and expensive • By minimizing costs related to construction defect suits, this will encourage increased production of homes, especially condominiums. 	<ul style="list-style-type: none"> • Local agencies shall provide a waiver process for individual developments to waive or modify inclusionary requirements including: <ol style="list-style-type: none"> 1. offering a lower rate of required on-site affordability 2. higher rates of area median income 3. “fee out” option to pay fees instead of building units on site 4. the ability to provide land or units off-site 5. waive all or some of the above if none of the above are feasible. • Waiver request and rationale shall be included in a project’s initial application material. If all or partial waiver denied, local agency must make findings supported by substantial evidence in the record that disproves project sponsor’s rationale for the waiver and can be subject to challenge under the Housing Accountability Act. 	Terms and requirements of waiver
Changes to Existing Law	<ul style="list-style-type: none"> • Grandfathering Existing Programs 	All local agencies, including grandfathered, must make findings and document that any local inclusionary zoning rates are not suppressing housing production based on annual public hearing in first 30 day of every calendar year before governing body with public testimony and evidence that shall include last 5 years of development applications, building permit issuance, and occupancy permit issuance in the local agency, and testimony from local for profit	Monitoring and enforcement to ensure not suppressing production,

		and non-profit developers. Hearing transcript must be transmitted to HCD and regional agency. Otherwise zoning compliant projects protected by the Housing Accountability Act at a zoned density cannot be made infeasible by the rates or application of any local inclusionary zoning program.	
Affordable Housing Fee		An affordable housing fee shall be charged to "high price units" defined as (TBD)	Formula for fee at least 10% Higher than median sales or rental price for new construction in the jurisdiction Legal issues in structuring fee

Compact Element #7: Strengthen Utilization of Public Land for Housing Production

Brief Summary: Promote increased utilization of public land for affordable housing through enhancements to a variety of legislation, regulatory tools and regional coordination and planning actions including strengthening the surplus land act, amending housing element law or amending the regulatory certification process, and embedding coordinating, technical support and monitoring functions in a regional housing entity. Goals are to achieve:

- Barrier reduction to developing on public land by ensuring that land is adequately zoned
- Create mechanism for coordination/monitoring of regional public land supply
- Provide technical support and draft legislation that encourages public land to be re-used for housing.

Desired Effect: Encourage the reuse of public land for the creation of mixed-income or affordable housing development.

Scale: State legislation applied to 9 Bay Area Counties; may impacts housing element law; to be addressed in coordination with other CASA policies.

Models: Puget Sound region of WA including Seattle; <https://www.psrc.org/public-land-affordable-housing>; <https://seattle.curbed.com/2017/9/29/16387686/surplus-public-land-affordable-housing>
Enterprise report: <https://www.enterprisecommunity.org/download?fid=3257&nid=3739>

References: Action Plans 16.1; 16.2

Negotiation Points: Intent: is it to “encourage” or to “create stricter requirements for affordability”
Incentive structure options, revenue source to cover localities cost to implement; levels of affordability; pricing and conveyance of land ranging from donated in full to conveying at below-market value

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Details	See (Current bill) Also support changing State Housing Element Law to: A) Require and resource jurisdictions to prepare a full inventory of publicly-owned sites within their boundaries, including current uses, and report this to their Councils of Governments (COGs). B) Allow residential uses on developable public land, regardless of zoning, by establishing a presumption in Housing Element Law that homes may be built on public land meeting certain criteria (eg not parkland). If a jurisdiction prohibits housing on a site, require them to submit a rationale for its exemption, based on strict State-sanctioned standards.		

	<p>Regulatory changes:</p> <p>A) Make public land more competitive for affordable housing funds to incentivize rezoning: Modifications to LIHTC, AHSC, other program requirements. Build in incentives to programs that encourage housing development on public lands.</p> <p>B) Review State's spatial guidelines for public facilities (ie schools) to evaluate potential for changes that could open up land for housing without compromising the quality of on-site public services (e.g. New York allows for vertical mixed use with ground floor public uses)</p>		
Definitions	<p>Temporary housing shall be defined as follows:</p> <ul style="list-style-type: none"> • Designed and constructed to be relocatable and transportable over public streets. • Floor area of 500 square feet or less when measured at the most exterior walls. • Sited upon a temporary foundation in a manner that is designed to permit easy removal. • Designed to be removed within three (3) years of installation 		
Labor Standards	<p>Public lands released for housing shall include policies that help expand the trained labor pool available for housing construction including requirements for trained apprentices and prevailing wages. Exceptions to these labor standards requirements on public lands shall be made for temporary housing built to address an emergency, and housing built with volunteer labor (see Labor Code §1720.4. http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1720.4.</p>		

Compact Element #8: Streamline Housing Approvals Through Fair, Predictable, Faster Process

Brief Summary: Amend State Housing and Permitting Laws (Permit Streamlining Act, Housing Accountability Act) to disallow backsliding to avoid compliance with State law, and to restore transparency, certainty, fairness, deadlines, predictability to housing approval process Case-by-case public disputes and opposition to many if not most housing projects, even when these are consistent with local plans and rules,. Good government must be transparent, fair, predictable, and even-handed across the region, with clear rules that apply to everyone equally.

Terner Center found in 2018 report that development fees are extremely difficult to estimate; are usually set without oversight or coordination between city departments, the type and size of impact fees levied vary widely from city to city; Individual fees add up and substantially increase the cost of building housing; and projects are often subject to additional exactions not codified in any fee schedule. Effect of legislation will be to create certainty and transparency in how impact fees are set and what they are, and overall reduce impact fees

UCB Terner Center 2017 <https://ternercenter.berkeley.edu/blog/it-all-adds-up-the-cost-of-housing-development-fees-in-seven-california-cities>,

Desired Effect: High Impact; Short Term for proposed housing or housing stuck in approval pipeline that that otherwise prevented from advancing or made infeasible due to lack of transparent or fair process including varying or changing standards for processing, impact fees, community benefits. Not possible to document the number of units “not proposed” or “slowed down until became infeasible”. Required precursor to increasing housing production of market rate, affordable, homeless, and all forms of housing.

Scale: State legislation applied to 9 Bay Area Counties

Models: Forthcoming if available/applicable.

References:

Action Plans Referenced: 12.1

https://www.law.berkeley.edu/wp-content/uploads/2018/02/Getting_It_Right.pdf

Negotiation Points: Terms and requirements for a local waiver; monitoring and enforcement to ensure not suppressing production; exploration of “deemed approved” language.

Bucket /	Summary	Areas for Further Negotiation	Additional Commentary
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Category of Detail			
Local Jurisdictional Requirements	<ul style="list-style-type: none"> Disallow height and density reductions, limits, and moratoria in already residentially zoned areas to avoid compliance with State housing law especially the HAA. Local agency and special district rules, fees, codes, and standards must be made available in writing to an applicant on a written form available at the local agency with clear mechanisms for determining rules, fees, inclusionary standards, community benefits and historic status determinations or they cannot be requested by the local agency nor agreed to by the developer. Historic status must be determined prior to project application completeness based on published reports. Allow no more than 3 de novo public hearings on a housing project (with possibility of appeals). Report to Bay Area Metro and HCD the length of time from new or renovated housing project application to project approval for all housing projects and remodels, as well as the number of de novo hearings and appeals on each. Use it or lose it provision such that streamlined permits expire if not used in a timely way (eg 24 months) May not reduce the number of residential units otherwise permitted by the maximum allowed building envelope. Precluded from considering impacts to views, privacy or solar access, except in the case of existing solar panels. 	<p>☐ Should this apply only to projects of 20 units or less (e.g. “small” projects)?</p> <p>☐ No net loss provisions on streamlined projects</p> <p>☐ Additional community engagement and delayed implementation in sensitive communities</p>	<p>Consistency with general plan when zoning non-compliant accomplished in AB 3194 (Gloria) signed in 2018-delete here</p> <p>Note that AB 2753 (Friedman) requires density bonus standards to be issued at Application Completeness, creating precedent for this approach</p>
Local Jurisdictional Requirements			
Fees/Rules	<ul style="list-style-type: none"> For projects consistent with the general plan, any relevant specific plans, and consistent with residential use zoning, LOCK FEES AND RULES AND COMMUNITY BENEFITS AT APPLICATION COMPLETENESS (excepting rule changes for life safety conditions). Lock fees and rules for 100% affordable projects as of the date of application. These local rules/fees cannot be modified after Application Completeness. Completeness shall be defined as making all the required plan changes in the first zoning completeness letter. 		

	<ul style="list-style-type: none"> • To remove small homes penalty, limit mitigation impact fees from all local agencies and special districts to being levied on a per square foot not per unit basis • Allow impact fees only on net new living area over 500 square feet (modeled on existing school impact fee law). • Implement fee impact recommendations of Turner Center: • Develop clear, consistent methodology for region for all impact fees that can be charged by local agencies. Work with Turner Center and HCD to develop this. Require evaluation of total fees, exactions, impositions, locally imposed requirements in excess of state building code (not labor costs) and provide documentation to regional agency and HCD. • Provide written estimate of all development impact fees that will be charged by the local agency through the entitlement and construction process at the time of application submittal or these cannot be levied as a condition of development approval • Lock all development impact fees and formulas/rates for charging these at application completeness • Require that local agencies allow payment of up to 50 percent of development impact fees at project completion or up to 100 percent of the fees at project completion if accompanied by reasonable financial security at permit issuance; 		
Parallel Amendments	<ul style="list-style-type: none"> • Amend Permit Streamlining Act to require approval of all residential projects less than 20 units or 20,000 square feet in size in 6 months, over 20 units in 12 months. Requires parallel CEQA amendments to be effective—see SB 35 Compact Item <u>Apply HAA's provisions for determining project consistency (if there is substantial evidence to support a consistency determination it is deemed consistent)</u>. Provide that remedies for successful project applicant legal challenge include same as in HAA. 		

Density Bonus Clarifications & Administration	<ul style="list-style-type: none"> • Re-write density bonus law to add clarity, clear implementation guidelines to be developed by HCD including implementing forms, agreements, etc. • Confirm and codify Density Bonus ruling in <i>Latinos Unidos del Valle de Napa y Solano v. County of Napa</i> ("LUNA") as applied to DB units, inclusionary units, and mitigation, SB 35 ie \$ for \$ credit (each is credited all requirements, no double or triple payments) • HCD monitor DB and IZ units 		
Density Bonus Requirements	<ul style="list-style-type: none"> • Relate Density Bonus Affordability to Palmer Fix (Inclusionary) and disallow separate housing impact fees except as an alternative compliance mechanism: 		Clarify that mitigation fees for housing may not be charged to Density Bonus or deed restricted units

Compact Element #9: Regional Housing Enterprise

Brief Summary: Establish a regional leadership entity to implement the CASA Compact, track and report progress, and provide incentives and technical assistance. The entity must be governed by an independent board with representation for key stakeholder groups that helped develop the Compact. The housing entity would not play a regulatory/enforcement role.

Desired Effect: Existing regional agencies either do not have the mandate (for e.g., the Metropolitan Transportation Commission) or the resources/tools (for e.g., the Association of Bay Area Governments) to directly tackle the region's pressing displacement and affordable housing crisis. The CASA Compact will set a bold region-wide agenda for addressing protection of existing tenants, preservation of existing affordable units and production of both market-rate and subsidized units. To implement this agenda, a broad coalition of stakeholders, who have helped shape the CASA Compact, must stay engaged with state legislative advocacy, building support for raising new revenue and financing programs, tracking and monitoring progress, keeping the public engaged, and taking a regional approach to challenges such as homelessness. A regional approach can balance inequities and imbalances across multiple jurisdiction that have to contend with varying market strengths, fiscal challenges and staff expertise.

Scale: State legislation applied to 9 Bay Area Counties

Models: New York City Housing Development Corporation (housing finance); Twin Cities (revenue-sharing)

References: The entire CASA Compact

Negotiation Points: board structure and governance, authority, roles and responsibilities, staffing and coordination with existing regional agencies

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Board Structure and Governance	CASA may recommend establishing a Regional Housing Enterprise (RHE) to coordinate and lead implementation of the CASA Compact. State law may establish an independent board, with broad representation to MTC, ABAG and key stakeholder groups that helped develop the CASA Compact.		

Authority	The state may form the RHE through an act of legislation, and give it authority to collect new revenue (through fees or taxes); disburse the revenue to programs and projects in the expenditure plans (consistent with the CASA Compact); purchase, lease and hold land; and provide direct assistance. The RHE will not have regulatory authority but will collect and monitor progress on implementing the CASA Compact.		
Roles and Responsibilities	<p><i>Revenue administration and debt issuance</i> – using the authority to levy fees and seek voter approval to impose taxes for housing, the RHE may collect and disburse new funding, issue debt based as needed, and allocate funding to protection, preservation and production programs, as laid out in the CASA Compact.</p> <p><i>Land leasing and disposition</i> – the RHE may act on behalf of the related public agency to lease or purchase land for housing development and assemble parcels, when appropriate. The RHE may hold and bank land, based on market conditions.</p> <p><i>Monitoring and Reporting</i> – the RHE may coordinate with MTC/ABAG to collect relevant data (including on local housing performance), conduct research and analysis, and disseminate information as part of its monitoring and reporting role. The RHE may also conduct evaluation of its program to improve state CASA outcomes.</p> <p><i>Enhanced Technical Assistance</i> – the RHE may coordinate with MTC/ABAG to provide extensive support and technical assistance to local jurisdictions (especially smaller jurisdictions with limited staff capacity), education and awareness for stakeholders (such as tenants and landlords), and communication materials for the broader public.</p>		
Staffing	The RHE may be supported by the consolidated staff of MTC/ABAG, with additional staff added in specialized areas such as debt issuance, land leasing and disposition, financing projects, etc.		

Compact Element #10: Funding and Financing the CASA Compact

Brief Summary: Raise \$1.5 billion in new revenue annually from a broad range of sources, including property owners, developers, employers, local governments and the taxpayers, to fund implementation of the CASA Compact. Allocate up to 10 percent of the new revenue for local jurisdiction incentives, another 10 percent for protection strategies, 20 percent for preservation, and 60 percent for the production of subsidized units for lower-income households. Distribute 75 percent of the new revenue back to the county of origin (return to source) and use the remaining 25 percent for regional program (revenue-sharing), while maintaining the allocation shares listed above. Disbursement of regional as well as county-level revenue would be subject to performance and outcomes, to be developed by the Regional Housing Enterprise (RHE). Any unused revenue would revert to the regional pot, after a specified time period.

Desired Effect: The Compact identifies a range of strategies to protect tenants, preserve affordability and produce new units. Many of the strategies, such as “Right to Legal Counsel,” building 14,000 new subsidized housing units annually, and preserving 26,000 market-rate units as permanently subsidized units for lower-income households, are unfunded mandates for the RHE without an infusion of new revenue.

Scale: State legislation applied to 9 Bay Area Counties

Models: TBD

References: The entire CASA Compact

Negotiation Points: Total amount to raise, potential sources, allocation and distribution formulas and level of flexibility.

Bucket / Category of Detail	Summary	Areas for Further Negotiation	Additional Commentary
Funding gap	CASA estimates that the funding gap to implement the Compact is \$1.5 billion per year over the next 15 to 20 years.		
Potential sources	New revenue could be raised through fees or taxes. In principle, new revenue would be raised from a range of sources to spread the responsibility (or pain). These sources may include property		

	<p>owners, developers, employers, local governments and taxpayers. Promising examples include:</p> <ul style="list-style-type: none"> A. 2 percent Vacant Homes Tax levied on property owners; B. Commercial Linkage Fee charged to developers, which ranges from \$5 to \$20 per square foot depending on whether the new development is located within or outside a Transit-Priority Area (TPA), or is in a jurisdiction that has a balanced or unbalanced jobs-housing ratio; C. Gross receipts tax on employers modeled on San Francisco, which varies by sector and size of the firm; D. Bringing back Redevelopment Agencies for housing and setting a 25 percent set aside requirement on revenues for subsidized units; and E. ½-cent Sales Tax. 		
Allocation formula	<p>New revenues would be allocated by the following shares:</p> <ul style="list-style-type: none"> • Up to 10 percent for local jurisdiction incentives; • Up to 10 percent for tenant protection services; • Up to 20 percent for preservation; and • A minimum of 60 percent for subsidized housing production. 		
Distribution formula	<p>New revenues would be distributed by the following shares:</p> <ul style="list-style-type: none"> • 75 percent to county of origin (return to source); and • 25 percent to a regional program (revenue-sharing). <p>Total expenditures would still meet the allocation formula (see above), and be subject to objective performance standards and outcomes.</p>		