

Host: Housing Legislative Working Group Meeting

Date: Thursday, April 18, 2019 7PM-9:30PM

Location: Board Room, MTC

Staffing:

Julie Pierce, HLWG Chair

Jake Mackenzie, HLWG Vice Chair

Therese McMillan, Executive Director

Brad Paul, Deputy Executive Director

Leslie Meissner, Counsel

Rebecca Long, Government Relations Manager

Fred Castro, ABAG Clerk of the Board

Notetaking by: Lily Rockholt, Civic Edge Consulting

Attendance: 20 Working Group members including call-ins.

Chair's Report: Reviewed HWLG procedures for new members.

Report on Housing Bill Landscape:

Long: Described the order of materials in the agenda packet, noted that AB 1485 (Wicks) has been significantly revised so it may not make sense to bring before the group. Proceeded to present on SB 330 (Skinner) and AB 1487 (Chiu).

Discussion related to SB 330:

Marin:

- Asked where SB 330 is now in the legislation process.
 - **Long:** responded that SB 330 was in the Senate Housing Committee, up for vote next Monday. [Note: it passed 8-2]
- Asked if there was any information about the size of the housing projects SB 330 applies to?
 - **Long:** Noted SB 330 applied to all projects that include housing, and the goal was to reduce the timeline for permitting.
 - **Chair Pierce:** Noted SB 330 is about expediting the local process to approve housing projects.
- The impact of parking limitations on fire truck access on narrow legacy roads is a concern.

Contra Costa:

- Asked if voter approval would be eliminated by item 6 in the SB 330 language.
 - **Long:** Stated that this only applies to ballot measures that cap permitting, restrict housing or limit population.
 - Several committee members requested the language be clarified as "no state law can take away the redress from the public."
 - **Chair Pierce:** Noted this language would also impact urban growth boundaries.

- **Long:** Stated the bill would allow land use policies capping growth that were approved by voters on or before January 1, 2019.
 - **Chair Pierce:** Noted the need for MTC staff to check on agricultural zoning.
- Stated that this legislation is redundant for many local jurisdictions that already have a standardized permitting process.
- Questioned ability of HCD to develop a single application form that works well for cities of 20,000 to 800,000. Suggested HCD determine what needs to be included, but let local jurisdictions customize the form to account for local conditions and project size.
- Asked for clarification when the developer slows the process down by requiring more time or asking for extensions; does that pause the 12-month clock for approvals?
- Requested that SB 330 investigate developer responsibility for slowing projects down, not just local governments. For example, when project is permitted but the developer decides not to build, or the project doesn't pencil out. What recourse do cities have? The bill is one-sided.
- Concerned that the bill doesn't address the "real issue" which is labor costs and cost of construction.
- Wondered if time limits could be tied to scale of projects and be less one size fits all.
 - **Long:** Noted SB 330 only applies to projects consistent with local zoning and general plans and that other projects would go through normal approval process.
- Concern that by locking in design standards based on what they were on 1/1/2018, it hinders ability to update and improve local design review by local jurisdictions.
- Stated that parking needs should be addressed at the local level to prevent challenges involving local nuances (smaller communities with little or no transit, fire truck access).
- Stated that this would need to have some exceptions for unintended consequences. For example, the Concord Naval Base that needs to be rezoned in order to be used for housing, notes that the retroactive zoning to current standards would kill this project, therefore killing a large housing project and defeating the purpose of SB 330.
- Felt substandard building section creates some major legal liability issues for cities.

Alameda:

- Asked how a standard form can apply to both small and large cities, it's one size fits all.
- Felt cities, not HCD, should be developing simpler application forms.
- While streamlining approvals is a good idea, there are a number of entitled, approved projects that aren't being built, so streamlining doesn't solve that problem.
- Regarding exempting affordable housing projects from impact fees, residents of such buildings use city services, so why should those buildings not also be subject to fees?
- Agreed current 5-10 year approval process too long, but 12 months too short. What about 1-3 years depending on scale and complexity of project?
- Noted nothing in SB 330 acknowledges funding gap/challenges for affordable housing.
- Stated that city permitting staff shortages often lead to slower project approvals,
- SB 330 doesn't address worsening traffic congestion that more housing will create.
- Setting zoning rules back to 1/1/18 doesn't allow environmental and resilience upgrades.

- Cities need impact fees for schools given major state cut backs on education funding, concern that by capping fees on future development bill would create inequities relative to what prior developments paid
- Re: substandard buildings provision, there needs to be a balanced approach. Comparing this to Oakland's Ghost Fire isn't fair – it would not have been allowed under the proposal given the life safety issues. It's better to have safer, ugly buildings than more tent cities, which is what's happening in their community.

Santa Clara:

- Noted an additional application wouldn't fix current permitting pipeline problems.
- Stated streamlined application/approval process shouldn't apply to mixed use projects.
- Noted that SB 330 lessens parking requirements, with no ties to how to transport people, closeness to major transportation hubs or potential impacts on narrow streets. Recommended parking be removed from the bill altogether.
- Noted need to identify funding for more transit if parking requirements are eliminated.
- Stated that impact and permit fees are charged to cover what the state isn't providing local jurisdictions for development infrastructure and increased services for constituents.
- Brought up electrification, and that old zoning rules weren't inclusive of environmental upgrades, going back to 1/1/18 zoning won't be helpful in reducing GHG emissions.

San Francisco:

- There should be a time limit but it shouldn't be uniform; bill should tie timeline for permitting to size and complexity of project (6-24 mo.).
- Asked if the clock stopped when developers are revising their strategies.
- Concerned that recent updates to zoning since 1/1/18 (Central SOMA Plan) would be nullified, which would be very problematic.
- Appreciates concern about impact fees but the need doesn't go away and has to be paid for somehow.
- Noted objective design standards are a great goal but challenging to implement.
- On substandard buildings, understood intent of the bill to keep people housed. While we shouldn't overlook life safety concerns, if basement apartment has 7'3" ceilings but code requires 8' ceilings, allowing a slightly lower ceiling is not a life safety issue. Should also look at providing some funding for owners to make upgrades.

San Mateo:

- Stated some allowances needed to be made for historical and other landmark buildings.
- Noted their city has already made changes so projects consistent with zoning don't even come to the city council and are just approved by staff.
- 12 months is not enough time for approvals; allowances need to be made for extenuating circumstances.
- Noted that some general plans were updated recently (for first time in decades) to allow for more and denser housing, so retroactive zoning and standards (1/1/18) would be unacceptable as they would undo years' worth of work with the community.

- Asked if this could include up-zoning banking, so if certain areas were up-zoned, and another area needed to be downzoned, would this be allowed?

Long: Yes, bill allows for a “no net loss in residential capacity” approach

- State should indemnify cities in substandard building section, a legal nightmare.
- Shared concern for using a rent standard linked to national standards when it is known that the Bay Area and California more broadly have the highest rents in the nation.

Long: Noted the bill’s application is pegged to a national standard, but it doesn’t yet specify what percent *above the national average rent* and *below* the national average vacancy rate a jurisdiction’s average rent would need to be to fall under the bill’s provisions.

Solano:

- Noted ownership changes on projects after approval that slow or prevent construction. A subdivision approved in 2005 has had 3 owners since then and is now dead.
- Noted that Solano County is the most affordable county in the Bay Area region, however they still have a low vacancy rate of two percent.
- Noted Solano County residents have the longest commute times and imposing a 0.5 parking per unit would negatively affect them given county’s limited public transit.
- Stated that cities have to charge the fees they do because of Prop 13. Fix that first.
- Concerned allowing legalizing sub-standard buildings because they already had people in them would legalize flop houses, and places deemed unfit due to health hazards.

Napa:

- Stated SB 330 addressed too many issues, thought it would be ineffective because of it.

Public comment:

1. Stated allowing sub-standard buildings to be occupied would mean more low-income people living in unsuitable conditions. Finished by stating this entire part of SB 330 should be eliminated.
2. Noted this proposed bill doesn’t allow for the ongoing protection for some historical buildings and historic districts and that this should be revised.

Discussion related to AB 1487 (Chiu):

Long: Provided an overview of AB 1487, to fund Housing Alliance for the Bay Area (HABA), and explained that it is based on CASA Compact Item 10, the Regional Housing Entity (RHE).

McMillan: Stated that MTC/ABAG has not had the chance to review AB 1487.

Marin:

- Thought the sales tax funding would be problematic for the entire Bay Area, but definitely Marin.
- Questioned the efficiency of creating another government entity.

Napa:

- Asked why ABAG can't do it? Asked who the members of HABA would be.
 - **Long:** Stated they would be representatives of MTC and ABAG, board members, the staff would be MTC/ABAG Staff. The bill specifies that more staff would likely be needed with housing expertise.

Sonoma:

- **Chair Mackenzie:** Noted that ABAG and MTC will be having some deep conversations about the practicality of this, and implementation as well.
 - **Chair Pierce:** Noted these discussions would be happening in July.

Contra Costa:

- Concern that continuing to increase taxes makes the region less competitive economically. Focus instead on redirecting existing on line sales tax revenue to the point of sale.
- Noted the housing crisis is a *statewide* problem and it needs a permanent *statewide* funding source. Sales and parcel taxes are all we have to fund schools, parks and local infrastructure.
- Stated they didn't think MTC should be part of this new organization. Has had issues with the way MTC handled transportation funding and its distribution in the past.
- Noted that a new regional agency isn't needed to secure or allocate housing funds, the counties can do it. Many have a system in place now to allocate state and county funds.
- Wondered if the role of HABA could be managed through existing non-profits.
- Emphasized the taxes should be on large employers (e.g. head tax) and proportionally adjusted upward in areas contributing the most to the jobs-housing imbalance such as San Mateo, San Francisco and Santa Clara County.
- Noted that for linkage fees, the term "mixed use" should be better defined in the bill.
 - **Long:** Noted MTC staff will pass this along to the author.

Alameda:

- Didn't appreciate proposal for new regional body given how CASA didn't include smaller cities until after Compact was done, instead of including them earlier in the conversation.
- Concerned three biggest cities would have disproportionate amount of power in HABA.
- Stated that if this work needs a regional administrative body, it should be ABAG.
- Concerned it doesn't address jobs-housing balance by city or by sub-region (East/West).
- Stated this could increase social injustice by forcing more low-income workers to commute even greater distances to work so they spend more time away from family.
- Urged more transit investments that help people moving to the Tri-Valley, Tracy and Stockton get to and from work in Bay Area quicker and easier.
- Stated that the Bay Area is already heavily taxed. If you increase taxes on residents, they'll have less money to spend on necessities at local businesses.
- Noted this doesn't address the need to fund more transit, schools, etc. for new residents.
- Asked what happens when regional tax measures compete with local tax measures.
- Noted this doesn't take into account the innovative things many cities are already doing.

Santa Clara:

- Noted Santa Clara passed a \$950 million bond for affordable housing. A regional tax on top of that would cause outrage with residents that would see it as double taxation.
- Worried this would adversely affect the Caltrain Measure going on the ballot in 2020.
- Liked idea of using the point of origin sales tax from online transactions to fund housing.
- Opposed new layer of regional bureaucracy. Suggested that all new housing funds go directly to cities by formula. Any money not spent by a city within three years goes back to the county. Opposed any of the funds being used for general fund as reward for achieving housing goals; should all be for affordable housing directly.
- Noted that the City Association of Santa Clara County supports ABAG playing this role.
- One job-rich city stated that it is considering limiting future office growth.
- Shared they are concerned about redundancies with funding sources, double taxation.
 - **Long:** Discussed that with any sales tax increase for housing, the amount would be reduced proportionally in each jurisdiction where a sales tax measures was already dedicated to housing.

San Mateo:

- Prefer to see new resources come from the state.
- Concerned they do not qualify for the various affordable housing funds; they have not qualified for redevelopment funds in the past.
- Affirmed they oppose new regional agency that will only be responsive to three big cities.
- Concern about a drain of resources from small cities going to big ones.
- Noted they recently spent \$150 million to expand local school capacity but will soon need more.
- Brought up Caltrain 1/8 cent sales tax going on ballot next year in Santa Clara, San Mateo and San Francisco Counties, they do not want to tax their county more than the already proposed tax increases. Want to dedicate sales and parcel taxes for local needs.
- Stated they'd be happy with a head tax for bigger employers in their county and suggested state legislature vote to give counties the direct authority to charge larger employers a head tax so big companies can start to make ongoing contributions.

San Francisco:

- Stated support for AB 1487 and felt the technical assistance and data a regional housing entity could provide cities across the region is a very important part of it.
- Noted that unlike other urban centers *most, if not all*, of the Bay Area is unaffordable.
- Noted that we do transportation funding regionally, we should do the same for housing and ABAG currently provides regional funding through the San Francisco Estuary Partnership and SF Restoration Authority (\$25 million/year thru regional Measure AA).
- Taxes aren't the top contributor to the Bay Area's high cost of living.
- Stated that even if San Francisco had not accepted so many new tech jobs those jobs would have gone somewhere else in the Bay Area.

Solano:

- Would like to see more of a focus on the jobs-housing balance, they would welcome employers such as Facebook or Amazon and house their employees as well.
- Liked variable head tax, high in SF and Silicon Valley, low or none in Solano.
- Suggested if MTC and ABAG each get 9 seats on the board, one be from each county. Bill should specify how counties are represented.
 - **Chair Pierce:** Noted that there are lots of small cities on the ABAG Board.
 - **Chair Mackenzie:** Stated that historically MTC has engaged in regional planning and addressed more than just transportation. Noted MTC engagement on housing furthers the implementation of the Plan Bay Area 2040 Action Plan.
- Noted that AB 1487 felt like another example of legislators coming up with big picture ideas without fully thinking through the many potential unintended consequences.

Public Comment:

1. Stated he opposed AB 1487 because ABAG and MTC boards have not reviewed the bill or agreed to staff HABA.
2. Noted she works for a non-profit organization that worked on AB 1487 with Senator Chiu and believes AB 1487 will go a long way to helping to correct the housing crisis. She doesn't see it as a big agency but more like a storefront operation that provides technical assistance, funding and data to local jurisdictions that want to build more housing. She said she wanted to speak to people after the meeting was over if they had any questions for her or the non-profit she represents. She also said that if people don't like this bill, she would ask them what else they think the state could do to help build more housing.
3. On phone: Stated that they should use staff in housing authorities in the region and hire more to scale up to the challenges rather than make an entirely new entity or out of MTC or ABAG staff.

Adjournment/Next Meeting:

They decided to proceed with discussion of SB 50 (Weiner), SB 4 (McGuire and Beall), AB 1279 (Bloom), and AB 1483 (Grayson), at their next meeting on April 25, 2019.