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Public Law Update - AB 1218: Expansion of “No Net Loss” Regulations

Assembly Bill 1218 (“AB 1218”) became effective on January 1, 2024, and expands the “no net loss” provisions in the Housing Crisis Act of 2019 (“HCA”) that prohibit cities from reducing the capacity for housing development, including demolition protections designed to ensure that there is no net reduction of housing in the State.

Existing HCA provisions provide, among other things, that projects cannot require the demolition of housing unless the project complies with specified criteria, including creating at least an equal number of new units, affordable housing units cannot be demolished unless the project replaces the units and allows existing residents to occupy their units until six months before construction starts, and the developer provides relocation assistance.

AB 1218 moves the HCA demolition protections into Article 2 of the HCA Chapter and makes substantive changes to the HCA demolition protections, including:

- **Protected Units** - Defining “protected units” as (1) residential dwellings that are or were subject to a recorded covenant, ordinance, or law restricting rents; (2) residential units that are or were subject to any form of rent or price control by the City; (3) residential units that are or were owned by lower or very-low-income households within the past five years; or (4) residential units that were withdrawn from rent or lease within the past 10 years.
- **Applicability** - Applying the demolition protections for sites with protected units that are proposed to be developed for non-residential purposes (e.g., offices, retail) unless the proposed development satisfies the statutory exemption.
- **Lookback Provision** - Applying the demolition protections to sites where protected housing units were demolished on or after January 1, 2020.
- **Occupant Notice** - Requiring that the project proponent must provide written notice of the proposed demolition at least six months in advance of the date that existing occupants must vacate, and their rights under Article 2 of the HCA, including the right to return at the prior rental rate if the demolition does not proceed and the property is returned to the rental market.