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Public Law Update – California's Evolving Housing Legislation: New Standards for Housing Needs Allocation and Compliance with SB 7 and AB 1886

Measuring Housing Needs for Seventh Cycle Housing Element- SB 7

As housing becomes an increasingly urgent issue across the State, Senate Bill 7 ("SB 7") is poised to bring significant changes to how future housing needs will be allocated to cities. SB 7 addresses key areas in the Regional Housing Needs Determination ("RHND") and Regional Housing Needs Allocation ("RHNA") processes.

Specifically, SB 7 amends the Government Code by:

- Prohibiting cities and counties from objecting to regional housing needs determinations in those regions where the California Department of Housing and Community Development ("HCD") distributes the housing needs.
- Mandating that the Council of Governments ("COG") provide data on the housing needs of individuals and families experiencing homelessness to HCD before developing the existing and projected housing need for a region.
- Requiring public participation and access from all economic segments of the community, including households with special housing needs, in the COG's methodology development and the regional housing needs allocation process.
- Reducing HCD's review time from 90 days to 45 days for the COG's draft methodology.
- Mandating that the seventh cycle housing element, and all subsequent housing elements, include an allocation for acutely low and extremely low-income households.
- Reducing: (A) the appeal period from 45 days to 30 days for cities and counties to appeal the COG's draft housing needs allocation; and (B) the public hearing notice for the COG's consideration of appeals from 21 days to 10 days.
- Requiring COGs to set a public hearing for the final adoption of the regional housing needs allocation plan and to submit a copy of the final, adopted allocation plan to HCD.

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The Legislature declared that SB 7 is a matter of statewide concern. Accordingly, SB 7 applies to all cities, including charter cities, and becomes effective January 1, 2025.

Strengthening Housing Element Compliance – AB 1886

Assembly Bill 1886 (2024) ("AB 1886") adds Government Code section 65585.03 which prohibits local governments from "self-certifying" their housing elements and instead places decision-making power solely in the hands of the Department of Housing and Community Development ("HCD") and the courts. AB 1886 expresses the Legislature's intent to ratify HCD's regulatory interpretation dated March 16, 2023, which stated, among other things, that any housing element adopted before an initial draft is submitted to HCD or before considering HCD's findings on an initial draft is deemed an initial draft and the jurisdiction does not have authority to determine that its housing element is in substantial compliance.

Additionally, AB 1886 adds Government Code section 65589.55 which provides that, for purposes of a local agency's approval, conditional approval, or disapproval of a housing development project pursuant to the Housing Accountability Act ("HAA"), "substantial compliance" is determined based on whether the housing element was deemed in substantial compliance (by HCD or a court of competent jurisdiction) at the time that the housing development application was submitted.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to land use, zoning, and planning issues, including regional housing needs allocations and appeals.

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