

IMMEDIATE STEPS FOR ADDRESSING THE CALIFORNIA HOUSING CRISIS

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Many talented individuals and their respective public, private, and non-governmental employers are working hard to address our housing crisis. All agree that the causes are complex, and the solutions of necessity likewise complex. Each brings their own passion for their particular piece of the housing puzzle to the forefront in these conversations: more public money for affordable housing; eviction protection and rent control for existing tenants; green housing (net zero carbon, small units near transit); faster project review and approval processing; bans on non-environmental lawsuits filed under the California Environmental Quality Act (CEQA); reducing and capping development fees; more money for housing-related infrastructure, paying prevailing wages and restricting jobs to construction union members, designing housing that respects the character of the community; protecting (or eviscerating) local control over land use decisions; assuring “amenity equity” for affordable housing; mandating “universal access” designs in all new units—with parking, transportation, public safety, schools, parks, local services, and a swirl of other concerns hovering in the background of the housing conferences; which then come to the forefront in planning commission and city council meetings statewide. These are messy conversations.

Housing is also a “hot topic”—state legislators and local elected officials have vowed to do better, even as about a million Californians—more young adults and working families, more minorities than whites—migrate to more affordable states with much higher per capita greenhouse gas emissions, like Texas, Arizona, Nevada, and Oregon.

We also all know this is a problem of “our” own making: housing production dropped dramatically beginning with the Baby Boomers’ ascension to power in the late 1970s and has lagged far behind demand for decades. During that time, Californians generally elected moderate-to-liberal legislators and statewide officers, California generally received its share of infrastructure and other funding from the federal government, and California’s businesses continued to create new jobs for a growing population. Look in the mirror. If you are over 50, you are responsible for the California housing crisis.

At the community and neighborhood scale, the majority of California voters live in or aspire to live in single family homes, commute a reasonable distance in comfort to work in less than an hour without roadway and highway gridlock, protect their community’s park and school amenities (including ease of parking), and resist high density housing and public transit. At the same time, academic and government planning and environmental experts are demanding that future growth be confined to smaller multi-family housing units in infill locations and future transportation capacity investments be limited to public transit. The most extreme of these advocates also endorse the end of home ownership as an attainable aspiration for working class Californians and even advocate the effective end of capitalism with concepts like a universal basic income and housing right.

The often-heated rhetoric of housing advocates—and those who have latched onto the housing crisis to advance various other interests—skips past the practical steps that can be immediately implemented to produce more housing more quickly that is affordable to far more Californians. Here’s that list:

1. **Build More Accessory Dwelling Units.** This type of housing can be produced the most quickly, at the lowest cost, in areas that are already developed. It can be a cottage or “junior ADU” within an existing structure, or it can be the reconfiguration of the lot into two homes. These are “of right” housing units that cannot be blocked by neighbors or homeowners’ association, nor can they be required to have additional on-site parking. Two families can combine incomes to qualify, one family can use the expected rental income stream to help qualify, and existing “house-rich” homeowners can increase the value of their homes and earn rental incomes.
2. **Expedite Local Permit Processing Approval Practices.** There are several existing legislative compliance tracks that allow for expedited permitting, and exempt or reduce environmental review under the California Environmental Quality Act, for housing and mixed-use projects. For example, in most urban areas, there are at least two—and often three or more—overlapping and previously-approved CEQA documents that can easily serve as a basis for preparing an “addendum” instead of either a Negative Declaration or Environmental Impact Report (EIR), even for projects that require amendments to General Plan or Zoning requirements. For projects that do comply, there are full and partial exemptions from CEQA available. Political, staff, and consultant/lawyer resistance to use of these lawful approval tracks remains. A 1-2 hour training session with city management, planning, and legal staff, can shave months and sometimes years—and hundreds of thousands of dollars—from the entitlement process.
3. **Reduce Discretionary Permit Processing for Some Housing in Some Places.** In jurisdictions willing to amend their ordinances, a zoning ordinance amendment that allows housing or mixed-use projects on vacant or underperforming retail/commercial sites can become an “of right” use. This would require only a “ministerial” building permit that is not subject to the environmental review and litigation risks inherent in “discretionary” design review and a conditional-use permit process that triggers the California Environmental Quality Act (CEQA). Cities can currently choose how much density and what type of housing products they allow (although this choice is being challenged in proposed Sacramento legislation).
4. **Working People Can’t Afford The Housing We Are Building: Encourage Less Costly Housing Types.** Urban limit lines, net zero, and other “beyond compliance” local mandates, and the cost of complying with state building codes, makes mid-rise housing cost nearly three times more per (smaller) unit than two-story detached or attached housing, and high-rise units cost more than five times more per unit. (see *Right Type, Right Place* from UC Berkeley authors, available here: <https://ternercenter.berkeley.edu/right-type-right-place>). Both Oakland and San Francisco have fully entitled more than 10,000 units that cannot get construction financing—because we don’t have enough households willing and able to pay \$4000 per month in

rent. Downtown Los Angeles vacancy rates for costly new apartments are edging up near 20%—in an otherwise strong economy. Three- and four-story walk-ups (with ground-floor ADA units) are the least costly form of multi-family housing, and townhomes are the least costly form of attached products.

5. **Suspend or Reduce Development Fees: Mar-a-Lago Scale Fees Discriminate Against Young and Minority New Residents.** The law of “nexus”—and the “free-to-existing-residents” cost of add-on development fees that are not directly related to paying a “fair share” for infrastructure, public safety, and schools, have driven some communities to impose fees of \$100,000 or more per unit of housing. State limitations are on their way; it is better for cities and special districts to re-examine new housing fees than have this authority stripped from them by future state legislation.

6. **Focus More on Missing Middle Housing, and Less on “Inclusionary” Housing Required to be Paid by Market Rate Housing: New Residents Don’t Create Housing Demand and Shouldn’t Pay Even More for Housing, and the Missing Middle is the Victim of This Politicized Debate.** Cities that are anxious to appear supportive of affordable housing, but are actually openly anti- housing, have for decades imposed economically infeasible “inclusionary” requirements of 25% or more. Even at the height of redevelopment, subsidized “affordable” units only comprised 6% of our housing supply—and as various non-partisan experts have pointed out, we have a vast need for supportive and other specialty housing supplies. “Inclusionary” housing above 10% is generally infeasible everywhere; even lower inclusionary rates can make a project financially infeasible. Inclusionary unit design mandates—like unit dispersal and equivalent amenity mandates—can further reduce the financial feasibility of inclusionary housing by reducing access to tax credits and contributing to financial infeasibility of units. “Workforce” units (for households making up to 120-140% of AMI) are particularly harmed by this paradigm of market/luxury housing that supports inclusionary low-income housing.

7. **Re-think Transit-Oriented Development and Complete Street Planning Principles Based on Actual Outcomes in Transportation, Public Transit, and Gentrification: Permit and Build Housing That Works, Not Housing That “Should” Work.** Walkable communities with neighborhood retail, parks, and schools are very high value—as are metro-stop new communities—for whiter wealthier residents, and increase wealth for existing owners, but have led to displacement for renters. Lower- and middle-income job earners “drive until they qualify” for jobs in more distant locations and then need feasible transportation solutions to get to jobs requiring physical employee presence. Current policies have actually led to an increase in vehicle miles traveled, the first net increase in many years of transportation-related vehicular emissions (99% of which were removed in relation to 1960s-era cars by effective regulatory strategies), and a reduction in public transit ridership. App-based car sharing, vouchers for Uber/Lyft or similar services, planned transportation capacity improvements already found to be consistent with greenhouse gas and transportation mobility mandates, and “last mile” transportation to and from regional rail, are all more realistic transportation solutions. Separation of uses on streets (e.g., more one-way streets, safe bicycle/scooter and walking routes), and

consolidated off-street parking facilities are working better in congested urbanized areas than “complete street” conceptual designs.

For more information about the non-environmental abuse of CEQA litigation against housing projects, please review the author’s publication, *California Environmental Quality Act Lawsuits and California’s Housing Crisis*, Hastings Environmental Law Journal, Winter 2018, available here: <https://www.hklaw.com/publications/California-Environmental-Quality-Act-Lawsuits-and-Californias-Housing-Crisis-12-13-2017/>

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