



June 24, 2021

The Honorable Scott Wiener
Chair, Senate Housing Committee
State Capitol, Room 2209
Sacramento, CA 95814

**Re: AB 215 (Chiu): Housing element: regional housing need: relative progress determination
As amended on June 23, 2021 – Oppose
Set for hearing in Senate Housing Committee – July 1, 2021**

Dear Senator Wiener,

The California State Association of Counties (CSAC), League of California Cities (Cal Cities), Urban Counties of California (UCC), and Rural County Representatives of California (RCRC) are regrettably opposed to Assembly Bill 215 by Assemblymember Chiu, which would create a new, mid-cycle regional housing needs progress determination process and mandate an open-ended consultation between cities and counties where housing production has lagged specified levels and the California Department of Housing and Community Development (HCD). Of primary concern to our organizations is the provision of the bill that would create a new mandate for this subset of jurisdictions to achieve HCD's designation as a prohousing jurisdiction.

As you know, the 2019 Budget Act declared the state's intent to incentivize jurisdictions to create "prohousing" environments at the local level through the form of additional points when applying for competitive housing and infrastructure grant programs. Specifically, the bill directed HCD to promulgate emergency regulations no later than July 1, 2021 to establish a prohousing designation program for cities or counties that have enacted local policies to facilitate housing development. AB 215 turns what was created only two years ago as an incentive program into a mandatory requirement for some jurisdictions.

Our organizations expressed concerns with the Prohousing Policies Framework Paper and Survey in October 2019; some of which were not addressed in the emergency regulations the HCD released earlier this month. While the emergency regulations appear to be flexible enough to allow many types of local jurisdictions to achieve the designation, we are concerned that they appear to require direct financial subsidies of affordable housing projects as a prerequisite for achieving the designation. While many jurisdictions help subsidize affordable housing with limited local funds, it may be difficult for jurisdictions with limited budgets or lower tax bases to meet this requirement. Finally, as an incentive-based program, the regulations provide HCD with significant discretion to rescind the designation, including based on any action the Department considers inconsistent with the "principles" of the prohousing designation. While

such a criterion may be appropriate when awarding an incentive, this language is overly broad for the purposes of a mandatory program.

In addition, we are concerned with the additional mid-cycle housing element review process and question whether the “relative progress” metric it relies upon is well-calibrated to produce the intended outcome. California’s regions are incredibly diverse, with significant variation in local economies. Imperial County, with an unemployment rate of 15.9%, is in the same region as Ventura and Orange Counties, which each have a 5.8% rate. Unincorporated areas tend to have fewer areas served by urban infrastructure, fewer employment options, and other economic limitations that can make housing production lag compared to cities. In most cases, a lower rate of “relative progress” toward RHNA goals will simply reflect these economic realities.

In cases where lack of housing construction is related to a jurisdiction failing to meet its housing element obligations, several recent changes in the law give the State new enforcement tools. HCD can review any action or failure to act by a jurisdiction that is inconsistent with the jurisdiction’s adopted housing element, including a failure to implement its housing element programs; revoke the Department’s prior findings that a jurisdiction’s housing element is compliant; and, refer a non-compliant jurisdiction to the Attorney General. The Attorney General, in turn, can bring the local agency to court to compel compliance with non-compliant jurisdictions becoming subject to significant fines. Rather than create a new mid-cycle housing element review process that is unlikely to be exclusively targeted at jurisdictions that are failing to meet their obligations, the State should remain focused on using the tools in existing law to promote housing element adoption and implementation.

Our organizations continue to be committed to aiding the state in meeting housing production goals. However, we cannot support the transition of an incentive-based program into a mandatory HCD program. For these reasons, we must respectfully oppose AB 215. Should you have any questions, please do not hesitate to contact Christopher Lee (CSAC) at clee@counties.org, Jason Rhine (Cal Cities) at jrhine@counties.org, Jean Kinney Hurst (UCC) at jkh@hbeadvocacy.com, or Tracy Rhine (RCRC) at trhine@rcrcnet.org.

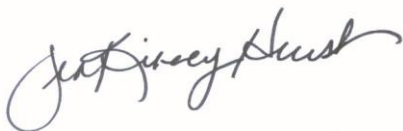
Sincerely,



Christopher Lee
California State Association of Counties



Jason Rhine
League of California Cities



Jean Kinney Hurst
Urban Counties of California



Tracy Rhine
Rural County Representatives of California

cc: The Honorable David Chiu, California State Assembly
Honorable Members, Senate Housing Committee
Erin Riches, Chief Consultant, Senate Housing Committee
Ted Morley, Consultant, Senate Republican Caucus