



LEAGUE OF
CALIFORNIA
CITIES



American Planning Association
California Chapter

Creating Great Communities

April 12, 2023

The Honorable Dave Cortese
Member, California State Senate
1021 O Street, Room 6630
Sacramento, CA 95814

**RE: Senate Bill 405 (Cortese): Planning and zoning: housing element: inventory of sites
As introduced February 9, 2023 – OPPOSE
Set for hearing in Senate Housing Committee – April 18, 2023**

Dear Senator Cortese:

On behalf of the Urban Counties of California (UCC), the League of California Cities (Cal Cities), the Rural County Representatives of California (RCRC), and the California Chapter of the American Planning Association (APA), we write in regrettable opposition to your Senate Bill 405. By requiring local governments to survey property owners prior to including any individual site in their housing element inventories, SB 405 would dramatically increase the costs of preparing the housing element without necessarily improving the quality of sites planned to accommodate regional housing needs. SB 405 is also potentially susceptible to exploitation by bad-faith actors who may pressure property owners to remove their land from the inventory to prevent development in high-opportunity communities. Finally, SB 405 is premature given the ongoing Department of Housing and Community Development (HCD) and Office of Planning and Research (OPR) stakeholder process and forthcoming report to recommend legislative changes to the regional housing needs allocation (RHNA) process.

Due to recent legislative changes, as well as improved methodology by HCD, most local jurisdictions have been required to plan for significantly more housing during their sixth cycle housing element. Large urban jurisdictions have RHNA numbers that typically measure in the range of tens-of-thousands of units. Surveying this many property owners would be a costly undertaking. Given the limited informational value of such a survey as compared to an analysis that examines broader trends and economic factors across the jurisdiction as a whole and applies those variables to thousands of parcels in a systematic way, we object to this requirement in SB 405.

SB 405 elevates the *non-binding* declaration of a property owner's speculation on the future disposition of their land above any other factor in determining whether a site is appropriate for inclusion in the housing element. We acknowledge that the stated plans of property owners are an important consideration when determining future housing growth—indeed, many housing element inventory sites are those where property owners have already applied for or received land use entitlements. A property owner's plans, however, are just one consideration affecting a property's potential for development, including the current use of the property, the value of any improvements as compared to land value, the market demand for any existing land use on the property, the price and market demand for housing in the jurisdiction, the location of the property and proximity to transit and other amenities, the capacity

and availability of infrastructure to support new development, and any local and state incentives to promote housing development. While a property owner might not currently intend to develop or redevelop their land, each of the aforementioned factors—not to mention idiosyncratic factors like a death, divorce, business closure, or retirement—could influence a change in those plans or prompt a sale to a developer who does intend to build housing.

The non-binding nature of the notification in SB 405 is also susceptible to exploitation by property owners who may wish to foreclose or limit future housing development in their communities—especially in communities that may have relatively small RHNA. Given the intensity of the debate around housing development in many communities, it is not difficult to imagine a campaign pressuring a property owner to ask that their property not be included in the housing element inventory. Inclusion in the housing element inventory provides substantive protections to affordable housing projects later proposed on a housing element site, so creating a new mechanism for housing opponents to remove a site from the inventory could ultimately prove counterproductive.

Finally, we are concerned about the timing of SB 405. Pursuant to AB 101 (Committee on Budget, 2019), HCD is currently in the initial stages of a stakeholder process that will culminate in recommendations to the Legislature from HCD and OPR by December 31, 2023. As part of the “California’s Housing Future 2040: The Next RHNA” initiative, HCD and OPR will recommend potential changes to the RHNA process to streamline housing development, while also promoting infill and protecting agricultural and environmental resources. SB 405 is premature, as it precedes the forthcoming report and makes changes to the 7th housing element cycle while many jurisdictions have yet to enter the 6th cycle.

For these reasons, we are regrettably opposed to SB 405. Please contact Chris Lee (UCC) at clee@politicogroup.com, Jason Rhine (Cal Cities) at jrhine@calcities.org, Tracy Rhine at trhine@rcrcnet.org, or Lauren de Valencia (APA) at lauren@stefangeorge.com with any questions about our position.

Sincerely,



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UCC



Jason Rhine
Cal Cities



Eric de Kok, AICP
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Tracy Rhine
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cc: The Honorable Scott Wiener, Chair, Senate Housing Committee
Honorable Members, Senate Housing Committee
Mehgie Tabar, Principal Consultant, Senate Housing Committee
Kerry Yoshida, Consultant, Senate Republican Caucus