



Councilmember Ben Bartlett
City of Berkeley, District 3

CONSENT CALENDAR
May 30, 2017

To: Honorable Members of the City Council

From: Councilmembers Ben Bartlett and Kate Harrison

Subject: Support AB 1505: Bill Strengthening Cities' Authority to Mandate
Inclusionary Rental Housing

RECOMMENDATION

Recommend that the Berkeley City Council send a letter to Senator Nancy Skinner and Governor Jerry Brown urging them to support AB 1505.

BACKGROUND

Inclusionary housing requires, or provides incentives for, the development of affordable housing as part of the development of market-rate housing. In most cases, this takes the form of a local ordinance or policy that requires all developments of a certain size to include some percentage of affordable housing.

Inclusionary policies have been used in California for decades. As a result, affordable housing has been built in desirable locations near jobs and opportunity, without spending public dollars. Inclusionary housing policies and programs contribute to the creation of mixed-income, diverse, and integrated communities by requiring developers to incorporate affordable homes within larger developments.

Unfortunately, in *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009), the Court of Appeals held that inclusionary housing ordinances for rental housing conflicted with—and were preempted by—the Costa-Hawkins Act. As stated in a press release from the office of Assemblymember Bloom (D-Santa Monica): “The Palmer court improperly conflated rent control, which is regulated by the state’s Costa Hawkins act, and deed-restricted affordable housing, which is not, creating uncertainty and confusion for local governments and housing advocates regarding the future viability of this important and well-established local land use tool.”

AB 1505, introduced by Assemblymembers Bloom, Chiu and Gloria, empowers (but does not require) cities to mandate affordable rental units in local housing development ordinances. Under AB 1505, inclusionary housing remains a local decision: with input from local stakeholders, the community can determine what mix of policies make sense

for their neighborhoods. Given California's severe housing crisis, it is critical that local governments have access to every possible tool to address affordable housing needs.

On May 4, 2017, the California State Assembly approved AB 1505. AB 1505 now heads to the Senate.

FINANCIAL IMPLICATIONS

Minimal.

ENVIRONMENTAL IMPLICATIONS

This is in line with the City's environmental goals.

CONTACT PERSON:

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Attachment:

1: Letter to Governor Jerry Brown and Senator Nancy Skinner

Dear Governor Jerry Brown and Senator Nancy Skinner,

The Berkeley City Council requests your support for AB 1505 proposed by Assemblymembers Bloom, Chiu, and Gloria. AB 1505 clarifies local governments' ability to adopt inclusionary housing requirements for new market-rate rental developments. It restores the long-standing authority of local governments to choose to require the inclusion of affordable rental units as one component of their local inclusionary housing policies, if they choose to adopt such policies.

We are highly supportive of any state-level legislation that gives local government more tools to tackle California's affordable housing crisis.

Respectfully,
The Berkeley City Council

