

January 28, 2020

The Honorable Scott Wiener  
Senator, California State Senate  
State Capitol Building, Room 5100  
Sacramento, CA 95814

**SUBJECT: OPPOSITION TO SENATE BILL 50 (Wiener) Housing Development Incentives**

Dear Senator Wiener:

On behalf of the City Council of the City of Rialto, I am submitting this letter of opposition to Senate Bill 50 (SB 50) related to housing development incentives. Unless the measure is further amended to address our key concerns, we will continue to be opposed to the proposed legislation. The recent amendments made on January 6, 2020, do not address our primary objections to SB 50. However, we appreciate recent amendments that attempt to create an alternative planning process for jurisdictions to develop a "local flexibility plan" that, if approved by the California Department of Housing and Community Development (HCD), would exempt cities from nearly all aspects of SB 50. However, we still object to the requirement to allow fourplexes in single-family zones and we are unable to evaluate whether the "local flexibility plan" is a viable alternative because the amendments do not clearly identify the elements of the plan.

**Specific Concerns with the January 6, 2020 Amendments**

It appears that the intent of the amendments are to provide local governments with an opportunity to develop their own plan to meet the goals and objectives of SB 50. Although the goal of increased density around transit is clear; the goal of the bill regarding a jobs-rich housing project is not.

The amendments, as drafted, raise the following concerns:

- Without clearly identified criteria, we are unable to evaluate whether the "local flexibility plan" is actually viable alternative planning option.
- OPR and HCD are tasked with developing "rules, regulations, or guidelines" for the submission and approval of a local flexibility plan" without sufficient direction from the Legislature. This rulemaking process is exempt from the Administrative Procedures Act, thus allowing the Office of Planning and Research (OPR) and HCD to craft rules, regulations, or guidelines with little to no public input or oversight.
- The elements of the plan are not clear: Further Legislative direction is required.
  - "Achieve a standard of transportation efficiency as great or greater than if the local government were to grant equitable communities incentives." SB 50 does not contain any language regarding "transportation efficiency." Therefore, it is not possible to determine how HCD, OPR or a local government will determine how to meet this standard or how a "local flexibility plan" is expected to comply with this standard.
  - "Increase overall feasible housing capacity for households of lower, moderate, and above moderate incomes, considering economic factors such as cost of likely construction types, affordable housing requirements, and the impact of local development fees." The override provisions of SB 50 do not contain any language regarding "feasible housing capacity for

households of lower, moderate, and above moderate incomes,” nor does it address “economic factors such as cost of likely construction types, affordable housing requirements, and the impact of local development fees.” Therefore, it is not possible to determine how HCD, OPR or a local government will determine how to meet this standard or how a “local flexibility plan” is expected to comply with this standard.

- SB 50’s “community plan” for sensitive communities provides a much clearer alternative and should be considered as a possible alternative planning process for all jurisdictions.

### **Remaining Objections to SB 50**

- SB 50 would greatly undermine locally adopted General Plans, Specific Plans, and zoning ordinances. The City of Rialto has spent a lot of time and effort crafting policy documents to guide future development that is accepted by the local community. In addition to the General Plan, Rialto has eight Specific Plans that envision areas with special types of development and character. If a city elects not to develop a “local flexibility plan” or if HCD does not approve a submitted “local flexibility plan” by January 1, 2023, the City would be required to give a developer an “equitable communities incentive”, which overrides locally developed and adopted height limitations, housing densities, and parking requirements. As such, SB 50 would erode our community’s ability to determine what type of development is appropriate in a particular area.
- Similarly, SB would undermine local Housing Elements. By allowing developers to override state approved housing plans, SB 50 seriously calls to question the need for cities to develop these community-based plans and the justification for spending millions of state and local funds on the planning process. In addition to our own local expenditure, HCD spends a significant amount of money and staff time to review and certify Housing Elements for 482 cities. In 2019 alone, HCD allocated nearly \$130 million to local governments to update their housing plans and approval processes. The 2019/2020 State Budget allocated an additional \$250 million on local plans. SB 50 would encourage developers to defy these plans and essentially waste millions of taxpayer dollars. Developers of certain housing projects should not be allowed to override locally developed (and HCD-approved) Housing Elements which identify adequate sites with sufficient density to accommodate a city’s share of the regional housing need. These sites are carefully selected to result in the type of neighborhood density and character that is desired by the local community.
- Fundamentally, SB 50 would give housing developers, who are unaccountable to local voters, the power to determine housing densities, heights up to 55 feet, parking requirements, and design review standards for “transit-rich housing projects” within one-half mile of a major transit stop. For those “transit-rich housing projects” within one-quarter mile radius of a stop on a high-quality bus corridor, developers would be able to determine housing density, and parking requirements above .5 parking spaces per unit. The area surrounding Rialto’s transit stop is adjacent to our downtown and historic commercial core. While additional residential density can activate a downtown area and makes sense near transit opportunities, precluding local review authority can result in unintended consequences such as overflow on-street parking, which could negatively affect our commercial businesses that rely solely upon on-street parking.

- It is unclear what constitutes a “jobs-rich area” since the HCD and OPR would be largely tasked with making that determination. By not defining “jobs-rich area” within the legislation, there is no way of knowing if SB 50 will actually accomplish its stated goal.
- Two-tiered process that exempts cities with a population of less than 50,000 that are in a county with a population of less than 600,000, from the most extreme provisions of the measure. It is unclear why these cities should be treated differently than a similar size city in a county with a population over 600,000. Instead of arbitrarily establishing a population metric, it would be much more appropriate to consider the full range of community characteristics when determining which areas of the State where SB 50 should apply.

| For these reasons, the City of Rialto opposes SB 50 unless amended.

Sincerely,

Rod Foster  
City Manager  
City of Rialto

cc. Senator Connie M. Leyva  
Assemblymember Eloise Gomez Reyes  
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