

AB 3177: Restrictions on Required Dedications to Reduce Traffic Impacts.

AB 3177 (§ 66005.1(c)) limits the ability of cities and counties to require dedications of property to relieve traffic congestion.

Significant Provisions

This bill prohibits local agencies from imposing land dedication requirements on housing developments for purposes of mitigating vehicular traffic impacts, achieving an adopted level of service, or achieving a desired roadway width. A dedication requirement may be required if:

- The housing development is not in a transit priority area **and** has a street frontage of 500 feet or more; or
- The purpose is to construct public improvements, including, but not limited to, sewers and sidewalks; or
- The requirement is imposed as a condition of approval of a specific housing development for traffic safety features if the agency makes a finding supported by substantial evidence that the dedication is necessary to preserve the health, safety, or welfare of the public, including pedestrians, cyclists, and children.

For purposes of this bill, a “housing development” is a project where at least 50 percent of floorspace is for residential use.

Impacts Your Job: In most instances, cities and counties will not be able to require roadway dedications from housing developments to ease traffic congestion.

AFFORDABLE HOUSING BILLS

AB 846: Definition of Affordable Rent and Rent Caps on Tax Credit Projects (Health & Safety Code § 50053 & 50199.25)

AB 846 (Health & Safety Code §§ 50053 and 50199.25) changes the definition of "affordable rent" under the Health & Safety Code for housing developments where at least 80 percent of the units, exclusive of managers' units, are dedicated to lower income households so that it matches the affordable rent provisions of the tax-exempt bond program, the low income housing tax credit program, or other local, state, or federal program providing public financing or public financial assistance to the housing development. The legislation also requires the Tax Credit Allocation Committee ("TCAC") to adopt regulations to cap increases on annual rents for tax credit projects.

Significant Provisions

State law provides that the definitions of "affordable rent" found in Health and Safety Code Section 50053 apply in numerous circumstances. The following are some examples of the 58 provisions of state law that currently reference Health and Safety Code Section 50053:

- Density bonus law;
- Surplus land act;
- SB 35 streamlined ministerial approval for housing developments;
- Real property tax exemption laws;
- Certain exemptions from CEQA;
- Replacement housing laws; and
- Law governing the use of the low- and moderate-income housing asset funds administered by successors to the housing assets of a community's dissolved redevelopment agencies.

The definition of affordable rent under Health and Safety Code Section 50053 differs from other affordable housing programs such as the low-income housing tax program. Affordable housing operators and local agency staff charged with monitoring affordable housing development must calculate multiple "affordable rents" for a residential unit under the varying definitions that apply under each program. The lowest of all rents applies to the unit.

AB 846 will simplify the calculation of affordable rent for affordable housing developments that meet the following criteria:

- The affordable housing development is using a state program in which the law governing that program provides that the "affordable rent" definitions in Health and Safety Code Section 50053 apply.
- 80 percent of the residential units (excluding managers' units) in the development are dedicated to lower income households.
- The affordable housing development receives, on or after January 1, 2025, an award of one of the following:
 - Federal or state low-income housing tax credits;
 - Tax-exempt private activity bonds or general obligation bonds; or
 - Local, state, or federal loans or grants.

AB 846 provides that if the affordable housing developments meets these requirements, the definition of affordable rent under the other housing programs applies rather than the Health and Safety Code definition. For example, if a development is using HOME funds as well as Low and Moderate Income Housing Asset Funds, the HOME rents apply, not the Health and Safety Code Section 50053 definitions of affordable rent. Similarly, if a development is using low income housing tax credits and Low and Moderate Income Housing Asset Funds, the tax credit rents apply, not the Health and Safety Code Section 50053 definitions of affordable rent.

Good to Know: TCAC annually publishes maximum rents by income category on its website so the TCAC rents are easy to access. The TCAC rents are also based on the date the developments are placed in service, which is the date the certificate of occupancy is issued for the units, so it is helpful to have that information.

Impacts Your Job: This change should considerably ease the monitoring of eligible affordable housing developments by local jurisdictions as it will make the calculation of affordable rent consistent with other programs, thereby eliminating the need to calculate the affordable rent under varying definitions. However, staff monitoring local affordable housing developments should verify if other definitions of affordable rent may also apply given the funding sources for the housing development.

The legislation also requires TCAC to adopt regulations to cap increases on annual rents for tax credit projects by June 30, 2025, and thereafter to assess and possibly modify the rent caps annually.

AB 2926: Assisted Housing Developments; Expiration of Affordability Restrictions

AB 2926 (§§ 65863.10, 65863.11, and 65863.13) makes several changes to state law relating to the California Preservation Notice Law, which requires an owner to provide certain notices to tenants and potential buyers where the affordability restrictions applicable to an “assisted housing development” are set to expire.

Significant Provisions

Currently, state law requires an owner of an assisted housing development who is proposing termination of a subsidy contract or prepayment of governmental assistance or an owner of an assisted housing development which has expiring rental restrictions to provide a 12-month and 6-month notice of the proposed change(s) to each tenant household residing in the assisted housing development.

Good to Know: AB 2926 expands the definition “assisted housing development” to include a development that receives the following assistance from a city or county in exchange for affordability restrictions: SB 6 (2022); streamlining assistance pursuant to AB 2011 (2022); SB 35 (§ 65913.4); or the Affordable Housing on Faith and Higher Education Lands Act of 2023. However, affordable units provided only under local inclusionary programs are not considered to be “assisted housing developments,” although affordable units provided in exchange for a density bonus or other provisions of density bonus law are considered to be “assisted housing developments.”

AB 2926 makes several technical amendments to these noticing requirements. First, in the 12-month notice to tenants, the owner is required to state whether the owner might impose *any* rent increase during the 12 months following prepayment, termination, or the expiration of rental restrictions, as opposed to just rent increases in excess of the limits established by the Low-Income Housing Tax Credit program. Similarly, in the 6-month notice to tenants, the owner must now state that they will accept enhanced Section 8 housing choice vouchers if existing tenants receive them.

The Preservation Notice Act also requires an owner proposing prepayment or termination, or with expiring rental restrictions, to give notice of the opportunity to submit a purchase offer at full market value one year in advance to potential buyers (i.e., all “qualified entities” as certified by HCD) interested in preserving affordability.

Under the new provisions, an owner who receives a bona fide purchase offer- at a price determined by the parties or by a qualified appraiser - from a preservation buyer within 270 days (or 9 months) of the notice of the opportunity to purchase must inform HCD of all such offers within 90 days and either (1) accept the bona fide offer from a qualified entity to purchase and execute a purchase agreement or (2)