BRENTWOOD HOMEOWNERS ASSOCIATION

June 18, 2020

Hon. Ben Allen, Senator (SD 26)
Via email: senator.allen@senate.ca.gov

Hon. Richard Bloom, Assemblymember (AD 50)
Via email: richard.bloom@asm.ca.gov

Re: SB 902, SB 1120, AB 725, AB 1279 ("Housing Bills")

Dear Senator Allen and Assemblymember Bloom:

The Brentwood Homeowners Association ("BHA"), on behalf of the 4,500 homes and 7,000 stakeholders in the Los Angeles 90049 area, hereby expresses its strong opposition to the subject "Housing Bills" in their current form. The Legislative Council's Digest of the four Bills is attached.[1]

Meaning of Upzoning; Violation of Principles of Fairness

The intent of the Housing Bills is to upzone residential areas throughout the State. Upzoning means changing the zoning code to allow taller and/or denser buildings; in other words, multiple units of housing would be allowed on a parcel that is now restricted to a single-family home. For example, in "R" zoning that now requires a minimum of 5,000 sq. ft. for a single-family home, SB 1120 would allow that 5,000 sq ft parcel to be subdivided into 2 lots with 2 homes on each lot, plus an ADU (accessory dwelling unit) for each home, resulting in eight housing units instead of one.

One question raised by the Housing Bills is their lack of basic fairness – is the extent of allowed densification by these Housing Bills (that override local zoning) fair in view of the investment-backed reasonable expectations of a single-family homebuyer who bought a home anticipating that his/her neighboring parcels would be subject to certain restrictions (unless there were a public notice and opportunity for input before a discretionary variance were granted in accordance with stated criteria). We submit that there is no justification for State-wide legislation that could result in a developer building a structure in a single-family zone like the photo below. Where is the equity in imposing that five-story building on the single-family neighbors next door?

Zoning policies that were originally conceived many years ago, in part to be exclusionary, can still be useful toward non-exclusionary ends, like ensuring that neighborhoods don't have more residents than their schools and sewers can handle, or that families who sink their savings into a home know what to expect around it.

[1] Although each of the four Bills has different specifics, they have the common objective of overriding existing zoning and densifying residential areas. They are not alternatives since all may become law. Hence, our comments in this letter are directed to the most glaring issues of the "Housing Bills", considered as a group.

Public Safety Risk of Upzoning in High Fire Risk Zones

Over 50% of the BHA homes are in a Cal-Fire Very High Fire Hazard Severity Zone ("VHFHSZ"). The effect of the upzoning allowed in the Housing Bills would be to increase the number of structures and the population in the BHA VHFHSZ areas, thereby creating an undue risk to lives and property. A clear and complete exemption is required in all upzoning legislation in order to prevent life-threatening gridlock on our narrow hillside roads needed for both emergency vehicles and resident evacuation. Merely requiring construction with sprinklers and fire-resistant materials would not mitigate the threat to the lives of residents and firefighters from increasing the population (and traffic) in our high fire risk areas. In recognition of safety concerns, many streets in our BHA VHFHSZ areas are subject to no-parking restrictions ("Red Flag Days") whenever Los Angeles is facing hot weather, strong winds and low humidity, in order to facilitate fire vehicle access. The exemption from upzoning in VHFHSZ areas must be an unambiguous complete exemption.

Defects in Housing Bills

Loss of Local Land Use Planning and Zoning

The public safety example above of appropriate rules to suit unique topography in VHFHSZ areas demonstrates one glaring defect of the one-size-fits-all, state-wide Housing Bills instead of relying on local land use planning and zoning. Historically, zoning has been essentially an exercise of local decision making, and for good reason. Local zoning can take into account local conditions and planning. Many of the arguments against suburban growth that is "out" instead of "up" will not apply if there is a substantial shift to more telecommuting. High density development near transit will not be necessary, and traffic from new suburbs will not be an issue. When Millennials have families, they will still want the "American Dream" of a single-family house in a safe neighborhood with good schools. They will be rightfully angry and disappointed if we allow the Housing Bills to bulldoze our single-family neighborhoods. Planning and zoning should be done slowly and locally – we need to resist state-wide densification.

The Housing Bills impose undemocratic State controls that interfere with a City's official responsibility to manage its own affairs. Years of planning that went into Community Plans, Specific Plans, and transit corridor plans, and that involved local communities and that integrate transportation and land use planning, would be summarily dumped by the real estate industry Housing Bills in Sacramento.

Upzoning Without Adequate Public Services and Public Infrastructure Will Destroy Quality of Life

The upzoning allowed by the Housing Bills would dramatically increase the population in a certain area as well as the number of housing units. An increased population will impose increased stress on the infrastructure – the demand for services (police, fire, sewerage, water, parks, schools, and transit) – without any infrastructure funding in the Housing Bills to pay for new services. The water mains, gas and sewage lines, and storm drains also need upgrading, as well as infrastructure for electricity and telecommunications. Without enough money to pay for school expansion, the quality of public education will suffer. Without improving the road system, congestion and driving times will suffer. Without funds for more police and fire, emergency response times will suffer.

California cities already lack the money to serve the populations they have. The Housing Bills would facilitate more people coming to California for jobs – particularly highly-compensated tech workers who would be attracted to the new market-rate housing. Of course, we can't fix everything at once, but it's common sense that the infrastructure should come before market-rate housing. Otherwise, our quality of life will dramatically suffer.

No Requirement of Affordable Housing

There is no explicit requirement that the housing built pursuant to the Housing Bills be affordable. Real estate developers will be able to build market-rate housing and make their usual profits. Proponents of the Housing Bills are relying on an unproven, and mistaken, assumption that there will be a trickle-down or filtering effect, and that many more market-rate units will somehow also result in more affordable units. But real estate developers make decisions based on their financial analysis, as they should, and private developers will not build affordable housing unless it is profitable, which it is not without some kind of government subsidy. The primary beneficiaries of the Housing Bills are real estate developers at the expense of the general public who will lose the stability and character of their neighborhoods.

The Housing Bills focus on the number of units allowed on a lot. This results in the delivery of the largest, most expensive/least affordable units that a builder can fit onto the site -- and out-of-scale structures like this:

SB 902 artist rendering of 10-unit market rate bldg in single family zone (missing lots of cars and trash cans that would be on street)

"Missing Middle" Housing is no more than 2.5 stories in height to keep it "house scale." Then developers would have to build smaller, more affordable units, but then the proponents of the Housing Bills would lose the support of developers they now enjoy, who want to build market-rate units. Hence, we have SB 902 that allows upzoning to 10 units (because at 11 units, developers would have to include affordable housing). And we have Housing Bills that allow developers to evade building affordable units by paying in lieu fees. A close examination of the Housing Bills discloses that they are a massive giveaway to developers at the expense of the general public under the guise of affordable

housing that would not be accomplished by these Bills. Housing densification under the Housing Bills will also not result in lessening our serious problems of racism, income inequality, or lack of equal opportunity, but that won't stop the Bills' proponents from using these rhetorical devices to assist their real estate developer backers densify single-family neighborhoods with expensive, market-rate units.

Loss of CEQA Protection

The California Environmental Quality Act ("*CEQA"*) generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. Compliance with CEQA has resulted in stopping bad projects and mitigating environmental defects in poor projects. In a misguided attempt to speed up housing development, the Housing Bills would enable developers to avoid the CEQA process. The protection of CEQA should not be eliminated by sprinkling a CEQA exception throughout individual Housing Bills. The goal of the Housing Bills is to sweep aside zoning and environmental laws disliked by real estate developers, so they can build what they want, where they want, regardless of the consequences

Richard Bloom

Our Assembly Member Richard Bloom is the author of one of the Housing Bills and supports others. He is up for election in November 2020. Please be advised that your constituents are closely watching, and expect you to withdraw your sponsorship and support for this legislation that would destroy the character of our neighborhoods and the quality of our lives.

Sincerely,

Kathleen Flanagan
President

cc: Hon. Toni Atkins (SD 39), senator.atkins@senate.ca.gov
Hon. Anthony Portatino (SD 25), senator.portantino@senate.ca.gov
Hon. Henry Stern, Senator (SD 27), senator.stern@sen.ca.gov
Hon. Scott Wiener, Senator (SD 11), senator.wiener@sen.ca.gov
Senate Appropriations Committee, sapr@sen.ca.gov

Legislative Council Diget of Housing Bills

SB 902

This bill would authorize a local government to pass an ordinance, notwithstanding any local restrictions on adopting zoning ordinances, to zone any parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban infill site, as those terms are defined. In this regard, the bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022, based on specified criteria. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

SB 1120

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill would require a proposed housing development containing 2 residential units to be considered ministerially, without discretionary review or hearing, in zones where allowable uses are limited to single-family residential development if the proposed housing development meets certain requirements, including that the proposed housing development would not require demolition or alteration requiring evacuation or eviction of an existing housing unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval, or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill would require a city or county to ministerially approve a parcel map for an urban lot split that meets certain requirements, including that the parcel does not contain housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months, and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.
By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

AB 725

The Planning and Zoning Law requires a city or county to adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. That law requires that the housing element include, among other things, an inventory of land suitable for residential development, to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need determined pursuant to specified law.

This bill would require that at least 25% of a metropolitan jurisdiction's share of the regional housing need for moderate-income housing be allocated to sites with zoning that allows at least 2 units of housing, but no more than 35 units per acre of housing. The bill would require that at least 25% of a metropolitan jurisdiction's share of the regional housing need for above moderate-income housing be allocated to sites with zoning that allows at least 2 units of housing, but no more than 35 units per acre of housing. The bill would exclude unincorporated areas from this prohibition and would include related legislative findings. By imposing additional requirements on the manner in which a city or county may satisfy its regional housing need, this bill would impose a state-mandated local program.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

AB 1279

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. That law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided.

This bill would require the department to designate areas in this state as high-opportunity areas, as provided, by January 1, 2022, in accordance with specified requirements and to update those designations within 6 months of the adoption of new Opportunity Maps by the California Tax Credit Allocation Committee. The bill would authorize a city or county to appeal the designation of an area within its jurisdiction as a high-opportunity area, as provided. In any area designated as a high-opportunity area, the bill would require that a residential development project be a use by right, upon the request of a developer, the project meets specified requirements, including specified affordability requirements. For certain residential development projects where the initial sales price or initial rent exceeds the affordable housing cost or affordable rent to households with incomes equal to or less than specified percentages of the area median income, the bill would require the applicant to agree to pay a fee in an amount that would vary based on the size of the project and whether the units are ownership or rental units, as provided. The bill would require the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50% of the area median income. The bill would provide that approval as a use by right of certain residential development projects under these provisions would expire after 2 years, unless the project receives a one-time, one-year extension, as provided.

This bill would require that the applicant agree to, and the city and county ensure, the continued affordability of rental units affordable to lower income and very low-income households for 55 years and that the affordability of ownership units to the initial occupant of those units, as provided. The bill would provide that a residential development project is ineligible as a use by right under these provisions if, among other things, it is proposed to be located on a site that has rental housing that is currently occupied by tenants, or had rental housing occupied by tenants within the past 10 years, or is located in certain areas. The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that

it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by requiring approval of certain residential development projects as a use by right, would expand the exemption for ministerial approval of projects under CEQA.
By adding to the duties of local planning officials with respect to approving certain development projects, this bill would impose a state-mandated local program.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.