



TOWN OF FAIRFAX

STAFF REPORT

July 7, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Ratify letter sent by the Mayor in opposition to Assembly Bill 215 (Chiu), which would create a new, mid-cycle regional housing needs progress determination process

RECOMMENDATION

Ratify the letter opposing AB 215 sent by Mayor Ackerman.

DISCUSSION

The League of California Cities provided a template for the attached letter and urged cities and towns to submit a letter of opposition on AB 215 (Chiu) before July 1, 2021. The bill was set to be heard in the Senate Committee on Housing on Thursday, July 1 at 10:30 a.m. and the Senate Committee on Appropriations later in July. As the Committee Hearing was scheduled prior to the next available Council meeting, Mayor Ackerman sent the attached letter on June 25th to the Senate Housing Committee. In the past, the Town has opposed similar housing legislation which imposes impractical/unrealistic regulations and mandates on communities. The Mayor is seeking ratification of the letter.

AB 215 would create a new, mid-cycle regional housing needs progress determination process, requiring cities and counties with “low progress” to consult with the California Department of Housing and Community Development (HCD) and adopt pro-housing policies. The attached letter provides more detail.

ATTACHMENT

Mayor Ackerman’s letter



TOWN OF FAIRFAX

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June 24, 2021

VIA POSITION LETTER PORTAL <https://calegislation.lc.ca.gov/Advocates/>

The Honorable Scott Wiener
Chair, Senate Housing Committee
State Capitol, Room 2209
Sacramento, CA 95814

Re: AB 215 (Chiu): Housing Element. Regional Housing Need. Relative Progress Determination.

As amended on April 5, 2021 – **Notice of Opposition**

Dear Senator Wiener:

The Town of Fairfax must respectfully oppose AB 215, which would create a new, mid-cycle regional housing needs progress determination process and mandate cities and counties with “low progress” in meeting those housing targets to consult with the California Department of Housing and Community Development (HCD) and adopt prohousing policies. Our chief concern is regarding the mandate to achieve HCD’s designation as a “prohousing jurisdiction”.

As you know, the 2019 Budget Act included language declaring it was the State’s intent to incentivize jurisdictions to create prohousing environments at the local level through the form of additional points when applying for competitive housing and infrastructure grant programs. Specifically, the language directed HCD to promulgate emergency regulations no later than July 1, 2021, to establish a prohousing designation program that determines whether a city or county has enacted local policies and strategies to accelerate housing development. AB 215 turns what was intended only two years ago to be an incentive program into a mandatory requirement for cities and counties to adopt state-supported policies and strategies regardless of whether those policies and strategies would result in increased housing development in a given community, whether those policies and strategies are appropriate for the type of community (e.g. urban, suburban, rural), and whether those policies and strategies are supported by the community.

Earlier this month, HCD released the proposed emergency regulations for the prohousing designation program and began the process to adopt them. While the emergency regulations appear to be flexible enough to allow many types of local jurisdictions to achieve the designation, we are concerned that the regulations appear to require direct financial subsidies of affordable housing projects in order to achieve the designation. While many jurisdictions help

subsidize affordable housing with limited local funds, it may be difficult for jurisdictions with limited budgets or lower tax bases to meet this requirement.

In addition, we are concerned about the new mid-cycle housing element review process and question whether the “relative progress” metric it relies upon is well-calibrated to produce the intended outcome. California’s regions are incredibly diverse, with significant variation in local economies. In most cases, a lower rate of “relative progress” toward RHNA goals will simply be a reflection of economic realities.

In cases where lack of housing construction is related to a jurisdiction failing to meet its housing element obligations, several recent changes in the law have given the State new enforcement tools. HCD can review any action or failure to act by a jurisdiction that is inconsistent with the jurisdiction’s adopted housing element, including a failure to implement its housing element programs; revoke its prior findings that a jurisdiction’s housing element is compliant; and refer a non-compliant jurisdiction to the Attorney General. The Attorney General, in turn, can bring the local agency to court to compel compliance with non-compliant jurisdictions becoming subject to significant fines. Rather than create a new mid-cycle housing element review process that is unlikely to be exclusively targeted at jurisdictions that are failing to meet their obligations, the State should remain focused on using the tools in existing law to promote housing element adoption and implementation.

The Town of Fairfax is committed to helping the State meet its housing goals, however, we cannot support the transition of an incentive-based approach to a mandatory HCD program.

For these reasons, the Town of Fairfax opposes AB 215.

Sincerely,

/s/

BRUCE ACKERMAN
Mayor, Town of Fairfax

cc: The Honorable David Chiu
The Honorable Mike McGuire
The Honorable Marc Levine
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