

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: January 25, 2021

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso *Avak Keotahian - rg For* Council File No. 21-0002-S21
Chief Legislative Analyst Assignment No. 21-01-0042

SUBJECT: Resolution (Koretz -Krekorian) to OPPOSE SB 10 (Wiener)

CLA RECOMMENDATION: Adopt Resolution (Koretz-Krekorian) to include in the City's 2021-2022 State Legislative Program, OPPOSITION to SB 10 (Wiener), which would allow construction of multi-family residential buildings within one-half mile of major transit stops without affordable housing requirements, thereby undermining local land use control and the concept of 'Home Rule' by the imposition of State legislation on local government agencies, including charter cities.

SUMMARY

Resolution (Koretz -Krekorian), introduced December 7, 2020, indicates that SB 10 (Wiener) would require that cities allow midrise, medium-density housing on sites that are either within one-half mile of public transportation or within a jobs rich neighborhood close to job centers, without affordable housing requirements or sensitivity to the character of existing neighborhoods.

The Resolution further notes that through Measure JJJ (Ordinance No. 184745), *Affordable Housing and Labor Standards Related to City Planning*, (Council File No. 16-0684), approved by City voters in November 2016, amended the Municipal Code to require developers of residential projects requesting certain entitlements, including Zone Changes and General Plan Amendments, to either designate a certain percentage of the project's units as 'affordable' or pay the City an in-lieu fee. In addition, through its Transit-Oriented Communities (TOC) program and associated Guidelines, the City created its own housing incentive program for developments near transit stops, while taking different approaches tailored to the unique character of the City's distinct neighborhoods by enacting a 'tier based' system to incentivize affordable housing for projects.

The Resolution further advises that SB 10 (Wiener) seeks to replicate the City's TOC program statewide, but without requiring *any* affordable housing in its default provisions. The City's TOC program specifically requires project applicants seeking building incentives, such as increased density or reduced parking, to set aside a specific number of units for low income households. More specifically, the Resolution further asserts that SB 10 does not address the State's *Costa Hawkins Act*, which restricts the ability of local jurisdictions ability to expand affordability requirements in rental units built after 1995, and therefore, requests that the City oppose SB 10.

BACKGROUND

On December 7, 2020, State Senator Scott Weiner introduced SB 10, which would authorize cities to adopt an ordinance to allow up to ten units *by right*, and therefore, would *not* require environmental (California

Environmental Quality Act) review, if the parcel is located in a transit/jobs rich area or an urban infill site. In addition, the allowable height for projects would also be specified in the required enabling ordinance.

SB 10 stands to affect all California cities, including charter cities such as Los Angeles. The bill defines a 'transit-rich' parcel as one within a one-half mile radius of a major transit stop, or a parcel on a 'high quality bus corridor,' with average service intervals of no more than 15 minutes during peak hours; and further defines a "jobs-rich" parcel as one identified by the California Department of Housing and Community Development (HCD) and the Office of Planning and Research, based on indicators such as proximity to jobs, and associated with positive educational and economic outcomes for all households of all income levels, and wherein the new housing would enable shorter commute distances.

In the Planning Department 'Housing Progress Report', covering January 2015 through September 2020, the Planning Department indicates that 24,937, units have been proposed under TOC since the program's inception in October 2017. The new units are concentrated in areas that are already dense and transit-accessible, including Koreatown, Hollywood and Palms.

Beyond affordable housing, the City also seeks to create 10,000 new units of housing for the City's homeless residents within a decade, and approved a pair of ordinances in April 2018 meant to facilitate their production. The first, Ordinance No. 185492 (Council File No. 17-1422), provides a streamlined environmental review process for Permanent Supportive Housing projects, as well as density bonuses and reductions in automobile parking requirements. The second, Ordinance No.185489 (Council File No. 17-1432), allows motel units to be converted into temporary housing for homeless people. In addition, the City is working to incorporate more opportunities for market-rate and affordable housing through its ongoing Community Plan update process which govern land use and development at the neighborhood level.

The City typically opposes legislation that undermines local control, and particularly as it relates to land use, inasmuch as city planning represents the desires of community residents as to the social, environmental, and physical form of the neighborhoods they reside, or businesses patronized, as codified in each of the City's 35 Community Plans.

While SB 10 proposes to provide cities, including charter cities, with a tool, to streamline housing production, its default provisions *do not* require any affordable housing, and simply defers to each city Statewide to enact their own ordinances, and as such, it is inconclusive whether cities will choose to include any housing affordability requirements. Therefore, opposition to SB 10 is consistent with the City's long standing policy to oppose legislation that either constrains, or at a minimum, prescribes the parameters of local ordinances, and thereby, undermines local control.

DEPARTMENTS NOTIFIED:

City Planning
City Attorney

Roberto R. Mejia - rg

Roberto R. Mejia
Analyst

Attachments:

1. Resolution (Koretz-Krekorian)
2. SB 10 (Wiener)

RESOLUTION

WHEREAS, an official position of the City of Los Angeles with respect to legislation, rules, regulations or policies, proposed to or pending before a local, state or federal government body or agency, must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and WHEREAS, the City of Los Angeles is leading the State of California in incentivizing multi-family development near transit through the passage of Measure JJJ, which was approved by the voters in November 2017; and

WHEREAS, Measure JJJ resulted in the creation of a city-wide program known as Transit Oriented Communities (TOC), which provides both allowances and additional incentives to build affordable housing if the project is within a half-mile of transit much like Senate Bill 10 (Wiener), introduced on December 7, 2020, as a successor to a prior bill, SB 50; and

WHEREAS, in April of 2019, the City Council voted to oppose SB 50, on the grounds that it would impose a one-size-fits-all response to the State's housing shortage that would undermine the efforts of the TOC program and compromise the integrity and character of the City's single-family neighborhoods; and

WHEREAS, SB 50 was amended in January of 2020 to allow local governments to submit their own housing plans, as long as they meet the goals of increasing housing density in a way that promotes sustainable transportation and affirmatively furthers fair housing, however SB 10 does not appear to contain this provision; and

WHEREAS, SB 10 may undermine the accomplishments and potential benefits of the City's current policies, in addition to decimating the City's single-family neighborhoods; and

WHEREAS, there is concern that SB 10's default program would incentivize the construction of market-rate housing and create millions of luxury units while requiring few, if any, affordable units; and

WHEREAS, SB 10 does not address some critical issues that have caused and exacerbated the housing crisis, the state's 1995 Costa Hawkins law, which restricts the ability of a local jurisdiction to expand affordability measures in rental units, and the prevalence of privately-owned vacant lots and housing units; and

WHEREAS, SB 10 projects have the potential to attract high-income people who don't necessarily use public transportation into newer luxury buildings adjacent to transit, bringing in more cars while providing insufficient parking;

NOW, THEREFORE, BE IT RESOLVED, with concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program its OPPOSITION to SB 10 (Wiener) which requires that cities allow midrise, medium-density housing on sites that are either within one-half mile of high-quality public transportation or within a jobs-rich, high-opportunity neighborhood close to key job centers without affordability requirements or sensitivity to the character of existing neighborhoods.

PRESENTED BY: Paul Koretz
PAUL KORETZ, Councilmember, Fifth District

SECONDED BY: _____
PAUL KREKORIAN (verbal)
Councilmember, 2nd District

DEC 15 2020

Introduced by Senator Wiener
(Principal coauthors: Senators Atkins and Caballero)
(Principal coauthor: Assembly Member Robert Rivas)

December 7, 2020

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as introduced, Wiener. Planning and zoning: housing development: density.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified 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. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65913.5 is added to the Government
2 Code, to read:
3 65913.5. (a) (1) Notwithstanding any local restrictions on
4 adopting zoning ordinances enacted by the jurisdiction, including
5 restrictions enacted by a local voter initiative, that limit the
6 legislative body’s ability to adopt zoning ordinances, a local
7 government may pass an ordinance to zone a parcel for up to 10
8 units of residential density per parcel, at a height specified by the
9 local government in the ordinance, if the parcel is located in one
10 of the following:
11 (A) A transit-rich area.
12 (B) A jobs-rich area.
13 (C) An urban infill site.
14 (2) An ordinance adopted in accordance with this subdivision
15 shall not constitute a “project” for purposes of Division 13
16 (commencing with Section 21000) of the Public Resources Code.
17 (3) Paragraph (1) shall not apply to parcels located within a very
18 high fire hazard severity zone, as determined by the Department
19 of Forestry and Fire Protection pursuant to Section 51178, or within
20 a high or very high fire hazard severity zone as indicated on maps
21 adopted by the Department of Forestry and Fire Protection pursuant
22 to Section 4202 of the Public Resources Code. This paragraph
23 does not apply to parcels excluded from the specified hazard zones
24 by a local agency pursuant to subdivision (b) of Section 51179, or

1 sites that have adopted fire hazard mitigation measures pursuant
2 to existing building standards or state fire mitigation measures
3 applicable to the development.

4 (b) (1) Notwithstanding any other law, a residential or
5 mixed-use residential project consisting of more than 10 new
6 residential units on one or more parcels that have been zoned to
7 permit residential development pursuant to this section shall not
8 be approved ministerially or by right, and shall not be exempt from
9 Division 13 (commencing with Section 21000) of the Public
10 Resources Code.

11 (2) Paragraph (1) shall not apply to a project to create no more
12 than two accessory dwelling units and no more than two junior
13 accessory dwelling units per parcel pursuant to Sections 65852.2
14 and 65852.22 of the Government Code.

15 (3) A project may not be divided into smaller projects in order
16 to exclude the project from the prohibition in this subdivision.

17 (c) For purposes of this section:

18 (1) “High-quality bus corridor” means a corridor with fixed
19 route bus service that meets all of the following criteria:

20 (A) It has average service intervals of no more than 15 minutes
21 during the three peak hours between 6 a.m. to 10 a.m., inclusive,
22 and the three peak hours between 3 p.m. and 7 p.m., inclusive, on
23 Monday through Friday.

24 (B) It has average service intervals of no more than 20 minutes
25 during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through
26 Friday.

27 (C) It has average intervals of no more than 30 minutes during
28 the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

29 (2) (A) “Jobs-rich area” means an area identified by the
30 Department of Housing and Community Development in
31 consultation with the Office of Planning and Research that is high
32 opportunity and either is jobs rich or would enable shorter commute
33 distances based on whether, in a regional analysis, the tract meets
34 both of the following:

35 (i) The tract is high opportunity, meaning its characteristics are
36 associated with positive educational and economic outcomes for
37 households of all income levels residing in the tract.

38 (ii) The tract meets either of the following criteria:

39 (I) New housing sited in the tract would enable residents to live
40 near more jobs than is typical for tracts in the region.

1 (II) New housing sited in the tract would enable shorter commute
2 distances for residents, relative to existing commute patterns and
3 jobs-housing fit.

4 (B) The Department of Housing and Community Development
5 shall, commencing on January 1, 2022, publish and update, every
6 five years thereafter, a map of the state showing the areas identified
7 by the department as “jobs-rich areas.”

8 (3) “Transit-rich area” means a parcel within one-half mile of
9 a major transit stop, as defined in Section 21064.3 of the Public
10 Resources Code, or a parcel on a high-quality bus corridor.

11 (4) “Urban infill site” means a site that satisfies all of the
12 following:

13 (A) A site that is a legal parcel or parcels located in a city if,
14 and only if, the city boundaries include some portion of either an
15 urbanized area or urban cluster, as designated by the United States
16 Census Bureau, or, for unincorporated areas, a legal parcel or
17 parcels wholly within the boundaries of an urbanized area or urban
18 cluster, as designated by the United States Census Bureau.

19 (B) A site in which at least 75 percent of the perimeter of the
20 site adjoins parcels that are developed with urban uses. For the
21 purposes of this section, parcels that are only separated by a street
22 or highway shall be considered to be adjoined.

23 (C) A site that is zoned for residential use or residential
24 mixed-use development, or has a general plan designation that
25 allows residential use or a mix of residential and nonresidential
26 uses, with at least two-thirds of the square footage of the
27 development designated for residential use.

28 (d) The Legislature finds and declares that ensuring the adequate
29 production of affordable housing is a matter of statewide concern
30 and is not a municipal affair as that term is used in Section 5 of
31 Article XI of the California Constitution. Therefore, this section
32 applies to all cities, including charter cities.