

January 28, 2020

Senator Scott Wiener, Chair
Senate Housing Committee
State Capitol, Room 5100
Sacramento, CA 95814

RE: REQUESTED REVISIONS TO SB 50, OPPOSE UNLESS AMENDED

Dear Senator Wiener,

On behalf of California's leading historic preservation organizations, we want to thank you for your leadership to address the state's housing crisis. Last year, we wrote to you to suggest recommendations for amendments for legislation that would incentivize housing development near transit areas in a targeted manner yet also protect historic structures. We thank you for responding to our letter last April and addressing some of our concerns.

After reviewing the January 6, 2020 amendments to SB 50, we still have strong concerns about the serious and irreversible threats to historic resources under the revised version of SB 50.

This bill weakens the existing protections of historic resources under the neighborhood multifamily projects and the Equitable Communities Incentives defined in SB 50. There is inconsistency between the types of historic resources protected and limited protection of historic resources, most significantly the limitation on exempting local districts beyond 2010.

Contrary to the perception of protections, **only a tiny fraction of structures, buildings and sites that qualify as "historic" under state law are actually designated as local landmarks or listed on the California and National Registers.** There are multiple reasons for the lack of formal listings.

- First, listing on the California and National Registers is prohibited without owner consent.

- Second, very few local jurisdictions have formal landmark programs, and those that do often require owner consent as well.
- Finally, formal listing by any level of government usually requires professional-level documentation that the resource is historic, and most jurisdictions do not have funding for staff support or to survey and designate resources on their own initiative.

Property owners rarely pursue formal listing themselves because the costs often outweigh any perceived financial benefits. Even fewer historic resources are “deemed eligible” for listing because this classification requires the relevant government agency to find the nominated structure, building or site meets designation criteria over the owner’s objections. **Statutes that rely on formal listing as the trigger for protection will likely miss more than 99% of potentially eligible historic resources.**

The process for designating historic resources is not capricious nor arbitrary. There are strict guidelines and criteria for determining whether a property qualifies for such designation. Designations are subject to public hearings by local, state or federal agencies having jurisdiction over such actions and must be based on substantial evidence. In most cases, designation is a lengthy process, on average, three to six months for a single property and a year or more for a multiple-property historic district.

We are committed to work with you and your staff on amendments that will ensure protections for historic resources while also providing incentives for affordable housing, and recommend the following amendments:

1. **SECTION 65913.5(b)(5)** – defines “eligible parcels” for neighborhood multifamily projects. **The definition should include structures determined eligible for listing on the defined registers and the timing for such designation.**

PROPOSED LANGUAGE

65913.5 For the purposes of this section and Section 65913.6, the following definitions shall apply:

(b) “Eligible Parcel” means a parcel that meets all of the following requirements:

(5): The development of the project on the proposed parcel would not **have an unmitigated adverse effect on a historic structure or district nominated or determined eligible for a national, state or local register prior to submittal of the application.**

2. **SECTION 65918.52(b)(3)(B)** – defines which parcels in populous counties are categorically exempt from receiving a height increase under SB50. **The cutoff date of 2010 is arbitrary and penalizes communities that have invested countless hours and valuable resources in good faith community-wide efforts to preserve historic resources at the local level. Remove the 2010 cutoff date for adoption of historic districts.**

PROPOSED LANGUAGE

65918.52. In order to be eligible for an equitable communities incentive pursuant to this chapter, a residential development shall meet all of the following criteria:

(b) The residential development is located on a site that, at that meets the following requirements:

(3) The site is not located within any of the following:

(B) A parcel for which either of the following apply:

(i) that includes an **individual historical resource** or a contributing **resource within the boundaries of** a historic district established at the state or national levels or by an ordinance of the local government prior to the date the application was deemed complete.

(ii)The parcel includes a structure that is **determined eligible** for listing on a **local,** state or federal register of historic resources.

3. **SECTION 65918.55(b)2(A)** - defines which parcels in rural counties (< 600,000) are categorically exempt from receiving a density bonus, height increase, restrictions on FAR, and parking reductions. **Clarify and broaden the application of the exemption by including individual historic resources per Public Resources Code section 5020.1.**

PROPOSED LANGUAGE

65918.55(b) To be eligible for an equitable communities incentive outlined in subdivision (a), a residential development shall meet all of the following requirements:

(2) The site is not located within either of the following:

(A) **The boundaries of** an architecturally or historically significant historic district **or historical resource**, as defined in Section 5020.1 of the Public Resources Code or is determined eligible for listing as a historical resource under Section 5020.1 of the Public Resources Code.

4. **SECTION 65918.56(a)** – enables local governments to deny an equitable communities incentive (height increase to 45 or 55 feet) with a “specific, adverse” impact on a state or national historic resource/district. **We recommend extending protections to structures that have been determined eligible by the local government for listing on a national, state or local register.** The bill does not recognize the work of communities that have invested countless resources in good faith to preserve historic resources in a systematic and equitable manner since 2010 and prevents them from doing so in the future.

PROPOSED LANGUAGE

65918.56 (a) The local government shall grant an incentive requested by an eligible applicant pursuant to this chapter unless the local government makes a written finding, based on substantial evidence, that the incentive would have a specific, adverse impact on any real property or historic district listed on, **or determined eligible by the local government for** a national, state, **or local** register of historical resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable.

5. **Different set of standards for counties based on populations greater than or less than 600,000.** This implies that undesignated districts in small counties are more significant than designated districts in larger counties. For example, why should Martinez be treated more restrictively than Vallejo? Ventura treated more restrictively than Santa Barbara? Both have a high concentration of historic structures in their downtown area, both have transit centers, and are in close proximity to each other yet they are treated differently because of the population of their respective **counties**. This bill arbitrarily reduces the requirements for density, height limits and parking not on individual community size and attributes, but on the total population of their respective county.

We are committed to work with you and your staff to find reasonable solutions to the complex problems facing affordable housing and homelessness in California without sacrificing our heritage. Please feel free to contact our lobbyist, Tony Gonzalez, London and Gonzalez Advocacy if you have any questions.

Sincerely,



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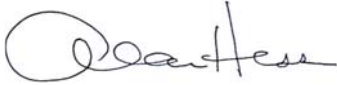
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cc: Senate Pro tem, Toni Atkins