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Since 1974

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AB 323 (Wieckowski)... 17 Changes to HOA Election Rules

Last week's deadline has passed. All bills needed to be out of their House of Origin (Assembly and Senate) by Friday lest they die or be held over until January 2020. Accordingly, floor sessions were fast and furious as more than 1,000 bills were racing to the other House.

As an example, Senator Bob Wieckowski's SB 323 breezed out of the full Senate after his 45 second verbal summary in which he asserted that better governance of HOAs would result, especially as the board nominations process and the resultant elections would be fairer and more accountable.

Not one Senator stood to raise questions or oppose the measure as 28 Democrats voted in favor and 8 Republicans voted against it. *Do you hear the train coming?* It will now be heard in Assembly committees.

According to the Senate's analysis here's who supported and opposed SB 323:

SUPPORT: (Verified 5/28/19)

Center for California Homeowner Association Law (source)

American Civil Liberties Union of California

California Association of Retired Americans

Greater Sacramento Urban League
Non-Profit Housing Association of Northern California
Schiffer & Buus

OPPOSITION: (Verified 5/29/19)

California Association of Community Managers
Community Associations Institute - California Legislative Action Committee
Lake Wildwood Association
28 individuals

323 is a follow up to 2 similar bills from last year, both of which were vetoed by Governor Brown who maintained that “one size doesn’t fit all HOAs. That mantra obviously didn’t prevail this year with 323. Negotiations among the players had some give and take but, in this author’s opinion, the outcome demonstrates a “class divide” among legislators regarding how HOAs are perceived.

Details on what this bill does will be provided soon.

SB 754 (Moorlach)... Elections by Acclamation

This bill passed the Senate unanimously. It allows for candidates to be elected by acclamation when there are fewer or an equal number of candidates than available seats on the board. This would avoid one or more costly election nomination and election procedures (already required I law) and parallels local public entity election laws which govern various boards. It also requires an election at the end of a director’s term and no less than every four years. Its sponsor is the very large Laguna Woods Village HOA in SoCal.

SUPPORT: (Verified 5/14/19)

Laguna Woods Village (source)
California Association of Community Managers
Community Associations Institute - California Legislative Action Committee

OPPOSITION: (Verified 5/14/19)

California Alliance For Retired Americans
Center For California Homeowner Association Law
1 Individual

Now, let's look at this HOA management bill:

SB 434 (Archuleta)... Prompt HOA Records Transfer

Requires a managing agent whose management agreement has been terminated to produce the HOA's property and records to the HOA and/or its new manager within 30 days pursuant to a written request by an HOA. It is co-sponsored by the Community Associations Institute and the California Association of Community Managers. Current law is silent on this matter so this measure fills that gap.

However, during the hearing, it was observed by a leading Senator that the bill's language still allows for a manager's intentional destruction, alteration or loss of records which runs counter to the bill's intent. Since no amendment has yet been inserted to correct this gaping hole ("oversight"), the author is holding the bill until January.

SUPPORT: (Verified 5/7/19)

California Association of Community Managers (co-source)
Community Associations Institute - California Legislative Action Committee
(co-source)

OPPOSITION: (Verified 5/7/19)

California Alliance For Retired Americans
Center For California Homeowner Association Law
2 Individuals

SB 326 (Hill)... Deteriorating Structures

Following the collapse of an apartment balcony which killed 6 college students we have another legislative attempt to prevent the causes of the collapse.

At CAI-CLAC's request, HOAs were deleted from a similar bill last year that sought to inspect elevated platforms more frequently, among other things. CAI sought this exemption based, in part, on the cost of inspections which are routinely performed every three years as part of the reserve study.

However, this bill was just amended to require a licensed structural engineer or architect to evaluate such elevated structures at least once every **9** years. (This may

suffice for construction within the last 9 years, but certainly older structures need an inspection and evaluation more frequently.)

First, SB 326 establishes a mandatory inspection regime for exterior elevated elements (EEEs), such as balconies, decks, walkways, stairways, and railings within HOAs. Second, it nullifies any provision in an HOA's governing documents that purports to condition or limit the ability of the HOA to bring construction defect litigation against the developer or builder of the HOA; some older communities were created by developers who inserted these limitations in the governing docs. Also, HOA members shall be notified of the possibility of a lawsuit in advance of the board taking such action.

It would also prevent board members appointed by or affiliated with the developer from participating in any board decision as to whether or not to pursue a construction defect claim against the developer, which explains CBI's opposition. The measure passed the full Senate on a 28-8 vote... with once again, 28 Dems and 8 Reps.

It is my opinion that the HOA industry really needs to educate and recruit more Dems into the "+" column to break the "class division" in the legislature.

SUPPORT: (Verified 5/1/19)

Community Associations Institute - California Legislative Action Committee
Consumer Attorneys of California

Eight individuals

OPPOSITION: (Verified 5/1/19)

California Building Industry Association

SB 50 (WIENER)... DENSITY BONUS LAW

This bill was halted in the Senate Appropriations Committee due to pressure from local agency governing boards. It would have made it easier for developments containing more houses in fewer spaces. It's author chairs the Senate Housing Committee but he was denied passage in "Approps" despite the new Governor's support for more affordable housing. It will be worked on and heard in January.

SB 670 (FRIEDMAN)... ADUs in HOAs

670 would effectively prohibit HOAs from preventing the construction of Accessory Dwelling Units by making the governing documents of an HOA void and unenforceable if they prohibit the construction of an ADU or Junior ADU on a lot zoned for single-family. State law allows local governments to adopt standards for the minimum and maximum size of an attached or detached ADU, but those standards cannot prevent the installation of at least one ADU or JADU. To appease HOAs, the bill allows an HOA's esthetics and architectural standards to be upheld.

This bill is supported by a coalition of real estate, urban planning organizations, and business organizations which all need employees near business centers and at an affordable price. Obviously, the YIMBY folks supported it. In today's Senate Housing Committee, no HOA organization opposed the measure. Again, 8 Dems voted in favor and 3 Reps voted against it.

Senate Constitutional Amendment 1 (Allen, et al) ... Public Housing

Per a staff analysis: "Existing law, under Article 34 of the California Constitution, requires majority approval by the voters of a city or county for the development, construction, or acquisition of a publicly funded "low-rent housing project."

The history: "Passed by voters in 1950, California's Constitutional Article 34 was a direct response to the Federal Housing Act of 1949, part of President Harry Truman's 'Fair Deal' to help lower-income post-war families move out of the slums and into better living situations. Some Californians, fearful of how this policy might change their neighborhoods, drove the push for a ballot measure requiring local governments seeking to 'develop, construct, or acquire ... low-rent housing' to also obtain approval for the development of the housing by a vote of the electorate." It has become known as the YIMBY vs. NIMBY issue... Yes, in my backyard vs. Not in my backyard.

It passed its first hurdle on a 9-0 vote... 8 of which were Dems. 2 Reps abstained. It has been "double referred, meaning it will be heard next in the Senate Elections and Constitutional Amendments Committee. As a constitutional matter it has no deadlines like regular bills.

You may ask how the State Legislature can repeal what the voters approved decades ago. The answer: SCA 1 would repeal Article 34 *if* voters approve it on the November 2020 ballot.

SUPPORT, as of May 29:

California Association Of Realtors (Co-Sponsor)
California Coalition For Rural Housing (Co-Sponsor)
California YIMBY (Co-Sponsor)
Los Angeles; City Of (Co-Sponsor)
Southern California Association Of Nonprofit Housing (Co-Sponsor)
Aids Healthcare Foundation
Berkeley; City Of
California Partnership
East Bay For Everyone
Eden Housing
League Of Women Voters Of California
San Francisco Housing Action Coalition
Silicon Valley At Home
West Hollywood; City Of

OPPOSITION:

None received.

SB 330 (Skinner)... Making the case for “AH”

Perhaps it's best to just provide you with some statistics from the bill which streamlines permitting processes to build more ADUs:

SECTION 1.

This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

SEC. 2.

(a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home prices is \$1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth of 10 percent or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

- (4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.
- (5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.
- (6) The housing crisis harms families across California and has resulted in all of the following:
- (A) Increased poverty and homelessness, especially first-time homelessness.
 - (B) Forced lower income residents into crowded and unsafe housing in urban areas.
 - (C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.
 - (D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.
 - (E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.
- (7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.
- (8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.
- (9) Costs for construction of new housing continue to increase. According to the Turner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost \$425,000 per unit in 2016, up from \$265,000 per unit in 2000.
- (10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.
- (11) The housing crisis is severely impacting the state's economy as follows:
- (A) Employers face increasing difficulty in securing and retaining a workforce.
 - (B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.
 - (C) According to analysts at McKinsey and Company, the housing crisis is costing California \$140 billion a year in lost economic output.
- (12) The housing crisis also harms the environment by doing both of the following:
- (A) Increasing pressure to develop the state's farm lands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.
 - (B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2030.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

CALIFORNIA HOUSING CRISIS... What Role for HOAs?

I am a board member of the Foundation for Community Association Research <https://foundation.caionline.org/> and I am also heading up a research project on affordable housing ...“AH”. As such, I have a keen interest in proposed laws that deal with the issue.

END

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