

Sheppard Mullin's Land Use Team Authors New California Law Expanding Affordable Housing Incentives

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On October 11, California's Governor Newsom signed into law a bill (AB 1287) that expands incentives for developers to build low-income and moderate-income affordable housing. San Diego Land Use partner Jeff Forrest drafted the bill pro bono for Circulate San Diego, a nonprofit organization that advocates for walkable communities and expanded housing supply to address California's extreme housing shortage that is driving families and businesses out-of-state where housing is more available and affordable.

Under current law, known as the State Density Bonus Law, a builder can only develop up to 50 percent more housing than zoning otherwise allows if the builder agrees to restrict 15 percent of the units in the project for very low-income households. The newly signed AB 1287 allows such a project to earn between 20 percent and 50 percent more density (70-100 percent total), if the builder also agrees to restrict 5 percent to 15 percent of the units in the project for moderate income families.

In adopting the new law, lawmakers noted, "The Legislature finds and declares that the intent behind the Density Bonus Law is to allow public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. It further reaffirms that the intent is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional public subsidy." Accordingly, no taxpayer funds are needed to expand the state's affordable housing supply; just permission to build more units on the same-sized property with fewer regulatory restrictions like height limits, parking minimums, and setbacks.

Attorneys

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Practice Areas

Real Estate, Energy, Land Use & Environmental