



**HOUSING
CALIFORNIA**



AB 1505 (Bloom, Chiu, & Gloria)

Restoring Local Discretion in Designing Inclusionary Housing Programs

Summary: AB 1505 restores the long-standing authority of local governments to choose to require the inclusion of affordable rental units as one component of their local inclusionary housing policies, if they choose to adopt such policies. Local governments can already apply inclusionary policies to for-sale housing. This bill ensures that rental housing is not treated differently.

Background: Local inclusionary housing programs in California have proven to be effective tools for producing new homes affordable to working families and creating strong, diverse neighborhoods with a range of housing choices. Around 170 cities and counties have some form of inclusionary housing requirement in place as a complement to other local, state, and federal programs to address California's affordable housing shortage.

Inclusionary policies have been utilized in California for decades, dating back to the late 1970s. However, an appellate court decision—*Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009)—cut off one crucial option for local governments: the ability to apply inclusionary policies to rental housing. The *Palmer* court improperly conflated rent control, which is regulated by the state's Costa Hawkins act, and deed-restricted affordable housing, which is not, creating uncertainty and confusion for local governments and housing advocates regarding the future viability of this important and well-established local land use tool.

The Bill: AB 1505 is narrowly focused on allowing local inclusionary policies to require the provision of affordable rental housing if so desired locally, effectively restoring the law as it stood

prior to 2009.

It is important to note that AB 1505 does not authorize inclusionary housing. There is no need for such authorization because adopting inclusionary policies is and always has been a constitutional exercise of the local police power. This was unanimously affirmed by the California Supreme Court in 2015 in *CBIA vs. City of San Jose*. The court also affirmed that local governments must provide developers with economically beneficial incentives if their inclusionary policies require developers to provide affordable units.

AB 1505 does not mandate anything. Local governments already may choose to adopt inclusionary policies, as many cities and counties in California have done over the last five decades. Under, AB 1505 it will continue to be a local choice.

AB 1505 does not give local governments any new authority that they did not have prior to 2009, nor does it constrain or dictate in any way what local inclusionary policies should look like. Under AB 1505, it returns to being a local decision, with input from local stakeholders, to determine what mix of policies, if any, make sense for their community.

Support:

- California Housing Consortium (co-sponsor)
- California Rural Legal Assistance Foundation (co-sponsor)
- Housing California (co-sponsor)
- Non-Profit Housing Association of Northern California (co-sponsor)
- Western Center on Law & Poverty (co-sponsor)

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