



California Rural
Legal Assistance
Foundation



Fact Sheet: AB 2502 (Mullin and Chiu) Protecting Local Inclusionary Housing Programs

Summary AB 2502 would protect locally enacted inclusionary housing programs, which help ensure that all new housing developments include a certain percentage of homes affordable to lower-income households.

Background Local inclusionary housing programs in California have proven to be one of the most effective tools for producing new homes affordable to working families and creating strong, diverse neighborhoods with a range of housing choices. Nearly 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 housing programs have been in place in California for decades. However, an appellate court decision—*Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009)—has created uncertainty and confusion for local governments and housing advocates regarding the future viability of this important local land use tool. The *Palmer* court held for the first time that the state's Costa-Hawkins rent control law prohibits local governments from creating affordable rental housing through inclusionary programs. In the wake of this decision, a well-established local tool that has provided quality affordable housing to over 80,000 Californians is in doubt.

Restoring Local Discretion AB 2502 restores local governments' ability to enact inclusionary housing programs by clarifying that Costa-Hawkins does not apply. The bill would amend the state's Planning and Zoning Law, the statutory scheme from which much of a local government's land use powers are derived, to make clear that inclusionary zoning is a permissible land use power.

Prior Legislation AB 2502 is identical to AB 1229 (Atkins, 2013), which Governor Brown vetoed, noting that he wanted to await the outcome of *California Building Industry Association v. City of San Jose*, a case challenging the constitutionality of inclusionary policies. The California Supreme Court issued a unanimous ruling in that case in June in favor of inclusionary zoning. With the constitutional question settled, the time is right to address the *Palmer* decision and affirm the ability of local governments to choose to require as a condition of project approval the inclusion of homes affordable to lower-income households.

Support

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