



City of Mission Viejo

Office of the Mayor and City Council

Trish Kelley
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April 15, 2024

The Honorable Juan Carrillo
Chair, Assembly Local Government Committee
1020 N St, Room 157
Sacramento, CA 95814

RE: AB 1886 (Alvarez) Housing Element Law: Substantial Compliance
Notice of Opposition (As of April 1, 2024)

Dear Chair Carrillo,

The City of Mission Viejo regrettably must oppose measure **AB 1886 (Alvarez)**, because it turns its back to a fundamental provision of housing element law: A city may disagree with HCD; explain why its housing element is in substantial compliance with the law; and then adopt that housing element which is thereafter considered “in substantial compliance with housing element law.”

For decades, cities have worked with HCD to draft housing plans that accommodate their fair share of housing at all income levels. These extensive and complex plans can take years to develop, include public involvement and engagement, and environmental review. Cities go to great lengths to ensure that their housing element substantially complies with the law, even if HCD disagrees. Current law acknowledges this fact by allowing cities to “self-certify” their housing element or take the issue to court and have a judge make the final determination of substantial compliance.

AB 1886 encourages “builder’s remedy” projects by eliminating self-certification for the purpose of what it means to have a housing element “in substantial compliance with the law.” The “builder’s remedy” allows a developer to choose any site other than a site that is identified for very low-, low-, or moderate-income housing, and construct a project that is inconsistent with both the city’s general plan and zoning. AB 1886 facilitates such projects for those cities that have a good faith disagreement based in substantial evidence.

While the City of Mission Viejo worked diligently on its housing element, rezoned all its housing opportunity sites, and submitted a draft housing element to HCD before the



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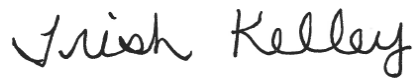
April 15, 2024

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October 15, 2021 statutory deadline, HCD did not agree with the City's findings and did not determine the element to be in substantial compliance with state law. The City worked through several different rounds of HCD comments, made numerous revisions to the element, and ultimately secured HCD certification on February 8, 2024. Despite good faith effort to comply with the law, it took the City over two years from initial submittal to obtain certification. The process for this Housing Element cycle was expensive and extremely labor intensive. This posed a significant burden to a lean-staffed city like Mission Viejo, using a Housing Consultant for direction and guidance only, with city staff doing the bulk of the work. A flood of new housing laws, lack of clarity with these new laws, and evolving interpretation of the laws by HCD staff, as well as changes in HCD personnel, were just some of the difficulties encountered throughout the process.

The City of Mission Viejo believes that AB 1886 is counterproductive. What is really needed is for HCD to partner with cities to provide meaningful direction that helps them finalize their housing elements and put those plans to work so that much needed housing construction can occur. For these reasons, The City of Mission Viejo must **oppose AB 1886 (Alvarez)**. If you have any questions, do not hesitate to contact me at citycouncil@cityofmissionviejo.org or 949-470-3050.

Sincerely,



Trish Kelley
Mayor

Cc: The Honorable David A. Alvarez
Members, Assembly Committee on Local Government
Linda Rios, Senior Consultant, Assembly Committee on Local Government
William Weber, Assembly Republican Caucus
Senator Catherine Blakespear ~ 38th District
Assembly Member Kate Sanchez ~ 71st District
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Mission Viejo City Council

