
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: SB 634 **Hearing Date:** 4/18/2023
Author: Becker
Version: 4/10/2023 Amended
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Low Barrier Navigation Center: opportunity housing: use by right: building standards

DIGEST: This bill: (1) authorizes opportunity housing projects, as defined, to be a use by right on mixed use, nonresidential zones permitting multifamily uses, single family, medical or faith based, or specified excess sites, as specified; and (2) requires the California Department of Housing and Community Development (HCD) to investigate possible changes to the California Building Code for health, safety, and fire standards that could unnecessarily increase project construction costs for opportunity housing projects.

ANALYSIS:

Existing law:

- 1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services (DGS) and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.
- 2) Requires HCD to propose the adoption, amendment, or repeal of building standards to the CBSC for residential buildings including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures.
- 3) Requires, as part of the housing element, an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the identification of zones that allow residential, including mixed uses, where emergency shelters and other interim interventions are allowed as a permitted use without a conditional use or other discretionary permit that are suitable for residential uses, as specified.

- 4) Defines “low barrier navigation center” as a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.
- 5) Defines “low-barrier” as best practices to reduce barriers to entry, and may include, but is not limited to, accommodating the presence of partners, pets, the storage of possessions, and privacy, as specified.
- 6) Requires low barrier navigation centers to be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses if it meets the following requirements:
 - a) Offers services to connect people to permanent housing through a services plan that identifies services staffing;
 - b) Is linked to a coordinated entry system;
 - c) Complies with housing first policies; and
 - d) Has a system for entering information regarding client information through the local Homeless Management Information System.

This bill:

- 1) Defines “opportunity housing” as a housing project providing noncongregate housing units that are not permanently affixed to the parcel and are relocatable for one or more target populations. The project can be located on a publically or privately held parcel that has no demonstrable use within the next five years and the project meets the definition of low barrier navigation center.
- 2) Provides that opportunity housing projects shall be a use by right on mixed use, nonresidential zones permitting multifamily uses, single family, medical or faith based, or specified excess sites.
- 3) Authorizes an opportunity housing project applicant to submit a request to any local agency regarding any parcel owned by the local agency to inquiry whether the parcel is suitable for an opportunity housing project. Upon receipt of a request, the local agency shall respond to the request with one of the following determinations:
 - a) The parcel has a demonstrable use within the next five years and is not suitable for an opportunity housing project.
 - b) The parcel will be deemed surplus land within the next five years.

- c) The parcel has no demonstrable use within the next five years, but the parcel is not otherwise suitable for an opportunity housing project.
 - d) The parcel has no demonstrable use within the next five years, but the local agency is not willing to negotiate a lease or license agreement with the opportunity housing project proponent for the parcel. A response pursuant to this paragraph shall include a justifiable reason for not leasing the parcel to the opportunity housing project proponent.
 - e) The parcel has no demonstrable use within the next five years and the local agency is willing to negotiate a lease or license agreement with the opportunity housing project proponent for the parcel.
- 4) Requires a local agency to respond to a request submitted for an opportunity housing project within 60 days.
- 5) Requires HCD, in an expedited meeting on or after January 1, 2024, to investigate possible changes to the California Building Code for health, safety, and fire standards that could unnecessarily increase project construction costs for opportunity housing projects. If the department determines that changes can be incorporated into the California Building Code to reduce the unnecessary construction costs for opportunity housing projects, HCD may propose those changes to the building standards for consideration by the CBSC.

COMMENTS:

- 1) *Author's statement.* "California has fewer housing units affordable and available to households earning below 50 percent of Area Median Income, the highest rate of homelessness, and the highest rate of unsheltered homelessness in the nation. Despite concerted efforts to increase housing production, California's budget, land, and zoning limitations inhibit sufficient permanent housing construction in the near term, with an estimated 40,000 housing vouchers going unused each year. California's homeless population of 115,000 people experiencing homelessness will continue to grow without a radical change in the way we approach housing production. SB 634 will help expedite the development of 'opportunity housing' on vacant land that has no planned use in the next five years. The bill defines opportunity housing as housing that is relocatable, reserved for people who are homeless or at risk of experiencing homelessness, creates a by-right use of this housing on private and public lands, and requests the Department of Housing and Community Development to review building codes so this housing can be built faster and cheaper while preserving habitability standards. By doing so, SB 634 will use our underutilized resource of vacant land to quickly and inexpensively house our unsheltered neighbors while we are building permanent affordable housing."

- 2) *Homelessness: stats and causes.* According to the most recent point in time (PIT) count, 171,521 people were experiencing homelessness in California—representing 30% of the nation’s homeless population. Two-thirds of the homeless population in California is unsheltered. Over half (51%) of all unsheltered people in the US were in California. California has the largest concentration of severely unaffordable housing markets in the nation and the statewide average home value reached a new record in June 2022 at \$793,300. Over three quarters (78%) of extremely low-income households in California are paying more than half of their income on housing costs compared to just 6% of moderate-income households.

A lack of affordable housing is the biggest contributor to homelessness. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental illness, however, cities with higher rents and lower rental vacancy rates (i.e., tighter housing markets) are directly linked to higher per capita rates of homelessness.

- 3) *Housing needs and homelessness.* The lack of affordable housing plays a significant role in causing individuals to become homeless or creates obstacles for individuals experiencing homeless to transition into stable housing. The need for and costs of housing have consistently outpaced the development of affordable housing for over 30 years. As of 2022, working at the minimum wage of \$15/hour, a renter would have to work 83 hours each week to afford a modest one-bedroom rental home at Fair Market Rent in California. The lack of supply is the primary factor underlying California’s housing crunch. To keep up with demand, HCD estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing. New construction of housing, both single family homes and apartments, continues to lag behind historical averages, and lags further behind the number of new units needed to meet housing demand.
- 4) *Prioritizing housing strategies in California.* The overwhelming evidence shows that the solution to homelessness is providing more habitable, stable, and permanent housing at all income levels, and in particular, more housing

affordable to the lowest income earners. According to the United States Interagency Council on Homelessness, in a May 2019 report, “when housing costs are more affordable and housing opportunities are more readily available, there is a lower likelihood of households becoming homeless, and households who do become homeless can exit homelessness more quickly and with greater likelihood of sustaining that housing long-term. To reduce the negative impacts of housing instability, and to end homelessness as quickly and efficiently as possible, communities are increasingly focused on expanding the supply of housing that is affordable to renter households at lower income levels, as well as ensuring that people experiencing and exiting homelessness have access to such housing.”¹

While increasing the supply of affordable housing is the priority solution to the homelessness crisis, there is a spectrum of housing solutions that different levels of governments should prioritize, depending on the specific needs of the individual or family experiencing homelessness. For example, many families merely require temporary rental assistance to maintain housing or rapid rehousing to connect to permanent housing. Some populations require more intensive services in conjunction with permanent housing options. For those living on the streets or in encampments, a shelter can provide short-term, temporary respite; for others, interim solutions such as bridge housing communities and low barrier navigation centers that provide a spectrum of housing and healthcare services, particularly to marginalized communities and those with pets, may be necessary while a more permanent solution (such as rental assistance or the construction of a new unit) can be attained. The end goal should always be, however, connections to housing that is truly affordable, low barrier, permanent, safe, and habitable as quickly as possible.

Beginning largely in 2017, the State of California and the voters have taken significant steps to invest billions of dollars for affordable housing construction, homeownership opportunities, and flexible homelessness solutions, as well as investments in infrastructure necessary to support these projects.² The Legislature has also created streamlined development approval processes and reduced opportunities for local governments to disapprove of quality housing projects and homeless shelters, which have sped-up the approval of these processes, and reduced costs associated with unreasonable project delays.³

¹ *The Importance of Housing Affordability and Stability for Preventing and Ending Homelessness*. (US Interagency Council on Homelessness, May 2019). https://www.usich.gov/resources/uploads/asset_library/Housing-Affordability-and-Stability-Brief.pdf

² “Background on Financing Programs for Affordable Housing”. (Senate Housing Committee, October 2021). <https://shou.senate.ca.gov/sites/shou.senate.ca.gov/files/Housing%20Finance%2010.2021.pdf>

³ “Overview of Housing Issues in California”. (Senate Housing Committee, October 2021). <https://shou.senate.ca.gov/sites/shou.senate.ca.gov/files/Overview%20of%20housing%20issues%20-%2010.2021.pdf>

Further, the state has increased planning requirements so that local governments create an environment to facilitate the creation of housing, and in particular, affordable housing construction⁴, and provided grants directly to local governments for these purposes.

- 5) *Streamlining for shelters and low barrier navigation centers.* Presently there are two main options to streamline shelters, interim interventions, and low barrier navigation centers. The first is through the housing element, which requires local governments to identify at least one zoning designation (that allows residential including mixed uses) where shelters and other interim interventions are allowed as a permitted use without a conditional use or other discretionary permit. The local government may impose specified objective standards to these shelters and interim interventions. The second is through a specific streamlining approval process for low-barrier navigation centers. Low-barrier navigation centers may be located in areas zoned for mixed uses and nonresidential zones that allow for multifamily uses, must be low barrier (allow for the presence of partners, pets, possessions and privacy), and offer services to connect people to permanent housing through a services plan.

This bill would streamline the development of opportunity housing, which meets the same definition of low barrier navigation center but is not permanently affixed, and therefore relocatable, and noncongregate. These housing units can be located on sites that are not intended to be used for permanent housing within the five years. This bill would allow those units to be sited in mixed use, nonresidential zones permitting multifamily uses, single family, faith-based, or medical zones. The bill states that these housing units are available to one or more target population but the intention was to specify for people experiencing homelessness or at risk of homelessness. **The author has agreed to strike the existing language and replace the provision to clarify occupants are limited to people experiencing homelessness or at risk of homelessness.**

Opportunity housing sites may not remain suitable for these developments; for example, a developer may propose to build permanent housing on the site at the conclusion of the five-year period or even sooner, or the site may no longer be suitable for opportunity housing. It is imperative that opportunity housing residents are not displaced as a consequence. **The author has agreed to amend the bill to require that if an opportunity housing project is approved for streamlining, that the applicant shall create a relocation plan, in consultation with the local agency. The plan shall provide, in the**

⁴ “Housing Element and RHNA Law: Recent Reforms”. (Senate Housing Committee, October 2021). <https://shou.senate.ca.gov/sites/shou.senate.ca.gov/files/RHNA%20reform%20fact%20sheet%20-%202010,2021.pdf>

situation in which the site is no longer suitable for opportunity housing and there are occupants residing in any of the opportunity housing units, a process to relocate all units on the site to an alternative location that meets the provisions of this bill, or to connect the residents to housing services for placement in other comparable or permanent housing.

- 6) *Background: building standards.* The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years; intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject. HCD is the relevant state agency for residential building codes.

This bill would require HCD in an "expedited meeting" to investigate possible changes to the building code that unnecessarily increase costs to opportunity housing projects, and authorize HCD to propose change to the BSC.

- 7) *Committee amendments.* **Due to time constraints, should this bill pass out of this committee, amendments agreed to by the author as outlined in Comment 5 will be taken in the next committee as author amendments.**
- 8) *Opposition.* The Corporation for Supportive Housing, Western Center on Law and Poverty, California Rural Legal Assistance Foundation, The National Alliance to End Homelessness, and Housing California, as a coalition, are opposed to the bill. They are concerned the bill is authorizing opportunity housing as a type of permanent or transitional housing, and as a result, streamlining unsafe housing settings with no guarantee for affordability. The coalition asserts that these housing types "typically do not have plumbing, often do not have air conditioning, and often sit directly on a cement slab or dirt. Materials are often not weatherproof, and the size of the home is usually just large enough to include a bed. Per square foot, they can be more expensive than permanent structures because they are not intended to last long and they cannot be built densely." They are also concerned that residents of opportunity housing will be charged rents, and concerned about the lack of protections that are in place to ensure residents do not exit back to homelessness or temporary shelter.

9) *Double referral.* This bill was also referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

AB 2339 (Bloom, Chapter 654, Statutes of 2022) — made changes to housing element law with regards to where shelters may be zoned, as specified.

AB 101 (Committee on Budget and Fiscal Review, Chapter 159, Statutes of 2019) — required low barrier navigation centers to be a use by right, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2023.)

SUPPORT:

Bay Area Council
City of Goleta
Golden Gate Restaurant Association
Mayor Darrell Steinberg, City of Sacramento
RSG 3-D
San Francisco Bay Area Planning and Urban Research Association (SPUR)

OPPOSITION:

California Rural Legal Assistance Foundation
Corporation for Supportive Housing
Housing California
National Alliance to End Homelessness
Western Center on Law & Poverty

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