



CITY COUNCIL

Joe Franklin
Mayor

Amy Howorth
Mayor Pro Tem

David Lesser
Councilmember

Steve Napolitano
Councilmember

Richard Montgomery
Councilmember

June 13, 2024

The Honorable David Alvarez
Assemblymember, District 80
1021 O Street, Suite 5320
Sacramento, CA 94249

RE: AB 2560 (Alvarez) Density Bonus Law: California Coastal Act of 1976.
Notice of OPPOSITION *(As Amended April 24, 2024)*

Dear Assembly Member Alvarez,

The City of Manhattan Beach must regrettably express our opposition to AB 2560 (Alvarez). While we understand the need to address California's housing crisis, including in coastal regions, if passed this measure would have significant negative impacts to both coastal communities and the environment.

This bill would clarify that Density Bonus Law applies to developments within the coastal zone, as defined by the California Coastal Act. The bill would not apply Density Bonus Law on specific sites within the coastal zone, including parcels not zoned for multifamily housing, areas vulnerable to five feet of sea level rise, areas that are not subject to a certified local coastal program, parcels within a 100-foot radius of a wetland, prime agricultural lands, among others included in subdivision (m) of Section 65915 of Government Code. Density Bonus Law requires local governments to provide bonuses, concessions, waivers, reductions, or incentives to affordable housing projects if there is a minimum number of affordable units proposed in the project.

AB 2560 would undermine a recent court decision and existing statute that codified coastal protection requirements under the California Coastal Act that supersede Density Bonus Law. Although these Density Bonus Law incentives may be beneficial to reduce housing costs, they conflict with specific declarations included in the California Coastal Act. Such requirements include balancing development with coastal resource protection, upholding scenic coastal views, ensuring adequate parking facilities, and maximizing public access to the coast (Public Resources Code §30250-30253).

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In 2016, the Court of Appeal determined¹ that affordable housing requirements set forth in the Density Bonus Act (Gov. Code § 65915 *et seq.*) are superseded by development restrictions set forth in the California Coastal Act (Pub. Resources Code § 30001 *et seq.*). The project aimed to increase affordable housing and included density bonus concessions under the City's density bonus ordinance, including higher rooflines and shorter setbacks. The Los Angeles Planning Commission denied the application and the City Council affirmed the decision of the Planning Commission. The developer (Kalnel Gardens, LLC) appealed, arguing that the state affordable housing requirements superseded Coastal Act provisions, but the Court of Appeals disagreed. It held that the Density Bonus Act was *expressly subordinate* to California Coastal Act restrictions.

This litigation was further adopted into statute² in 2018 that already requires Density Bonus Law and the California Coastal Act be harmonized so as to achieve the goal of increasing the supply of affordable housing in the coastal zone while also protecting coastal resources and coastal access. AB 2560 would reverse this court decision, cause confusion at the local level, and impede housing projects from moving forward in the coastal zone. Coastal cities already have the ability and are implementing Density Bonus Law within the coastal zone through locally adopted ordinances. AB 2560 would disrupt the balance cities have achieved in harmonizing the California Coastal Act with Density Bonus Law and would jeopardize both the values and protection afforded in the California Coastal Act as well as the character of California's coastal communities.

AB 2560 would disincentivize cities in the coastal zone from achieving a certified local coastal program (LCP) which erodes local control and the ability for locals to harmonize coastal planning and housing goals. In the bill's most recent amendments, there is a carve-out for coastal cities that do not yet have a certified LCP. A certified LCP allows local governments to retain coastal development permitting authority and the ability to determine how best to plan within their local community. The bill would present an extreme challenge for cities if LCPs are not certified, by then needing to rely on the California Coastal Commission to issue coastal development permits, which would inadvertently slow the process to further develop affordable housing in the coastal zone.

While we recognize the intent of the author to incentivize the development of affordable housing within coastal cities, based on the reasons listed above, the City of Manhattan Beach respectfully **opposes** AB 2560.

¹ *Kalnel Gardens, LLC v. City of Los Angeles*, (2016) 3 Cal.App.5th 927

² Assembly Bill 2797, Chapter 904, Statutes of 2018)

The Honorable State Assemblymember David Alvarez

June 13, 2024

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For these reasons, the City of Manhattan Beach **opposes AB 2560**.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Franklin". The signature is stylized with a large, sweeping initial "J" and "F".

Joe Franklin

Mayor

City of Manhattan Beach

Cc: City of Manhattan Beach City Council
The Honorable State Assemblymember Al Muratsuchi
The Honorable State Senator Ben Allen
South Bay Cities Council of Governments
Jeff Kiernan, League of California Cities Public Affairs Manager
League of California Cities, cityletters@calcities.org
California Contract Cities Association



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July 15, 2024

The Honorable David Alvarez
Assemblymember, District 80
1021 O Street, Suite 5320
Sacramento, CA 94249

RE: AB 2560 (Alvarez) Density Bonus Law: California Coastal Act of 1976.
Notice of OPPOSITION (*As Amended July 1, 2024*)

Dear Assemblymember Alvarez,

The City of Manhattan Beach must regrettably express our opposition to AB 2560 (Alvarez), as amended on July 1, 2024. The committee amendments at the June 24, 2024, Senate Natural Resources and Water Committee (SNRW) present a significant shift in housing oversight and state authority and are extremely problematic for local governments. We recognize the amendments were not author amendments and were provided by the committee, however, the City of Manhattan Beach continues to oppose the bill. As amended, the bill will make it extremely challenging to develop affordable housing on the coast.

As introduced, AB 2560 would clarify that Density Bonus Law applies to developments within the coastal zone, as defined by the California Coastal Act. Density Bonus Law requires local governments to provide bonuses, concessions, waivers, reductions, or incentives to affordable housing projects if there is a minimum number of affordable units proposed in the project. As amended, the bill will present an extremely challenging reality that will mire local governments in planning approvals, preventing the actual development of affordable housing in the coastal zone:

1) Two different state regulators will take the helm enforcing housing policies for coastal communities.

Local governments are required to develop housing elements and seek compliance with the California Department of Housing and Community Development (HCD). In the coastal zone, local coastal programs (LCPs) are required to include specific and limited land use and zoning information, and cities and counties must gain certification from the California Coastal Commission (Commission) under the California Coastal Act (Act). The Commission was stripped of its housing authority just five years after the Act was codified in statute. As amended, the bill would reinstate housing authority for the Commission and thrust two very different state regulatory

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agencies – HCD and the Commission – would be in a position to require specific housing policy and program information and outcomes of cities and counties, independent of one another. This would open the floodgates for duplicative planning efforts, dueling regulatory oversight, doubling down on locals with housing requirements, and most importantly – stalling the actual development of affordable housing in the coastal zone. This change is fraught with potential litigation and without any statutory direction, opens the door for the Commission to demand significantly more housing policy and program information in local-developed LCPs, further hamstringing local governments to meet their housing goals.

2) A more stringent standard than existing law will be needed to implement Density Bonus Law in the coast.

After a recent court decision¹, the California Legislature codified into statute² that coastal protection requirements under the Act be harmonized with Density Bonus Law. This was intended to support local governments in achieving their goals of increasing affordable housing in the coastal zone while also protecting coastal resources and coastal access. While ‘harmonization’ is currently undefined in law, as amended, AB 2560 would now impose a new standard of needing to provide that Density Bonus Law is implemented in a way that does not result in significant adverse impacts to coastal resources. This sets a different standard than codified and defended in the courts. This would also allow the Commission to enforce that to that standard. With the exemptions already included subdivision (m) of the bill, significant adverse impacts would not be anticipated to the coastal resources and environmentally sensitive areas in the coast. This would only allow for the Commission to require greater justification and analysis in the LCP when applying Density Bonus Law and would include a more stringent review of coastal development permits for projects using Density Bonus Law. This will make it harder for cities and counties to use Density Bonus Law to meet their currently mandated housing goals in the coast.

3) Unfunded and mandated LCP amendments and certification will delay affordable coastal housing development.

By requiring all 61 cities and 18 counties to update their LCPs by July 1, 2026, the bill is an unfunded mandate that will inundate the Commission and delay the certification of LCPs to move forward with affordable housing projects that incorporate Density Bonus Law. LCP amendments are costly and time-consuming. Each amendment can range anywhere from several hundred thousand dollars to over a million dollars of local government staff time, local resources, and support. Local governments can and have already incorporated Density Bonus Law into their LCPs, without any change to existing law; therefore, mandating that all local governments do so will only add time delays and financial burdens on local governments without actually increasing affordable housing.

¹ Kalnel Gardens, LLC v. City of Los Angeles, (2016) 3 Cal.App.5th 927

² Assembly Bill 2797 (Chapter 904, Statutes of 2018)

For these reasons, the City of Manhattan Beach **opposes AB 2560.**

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