

# The Housing Element Opportunity

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# California Adopted Its Planning-for-Housing Framework in 1980

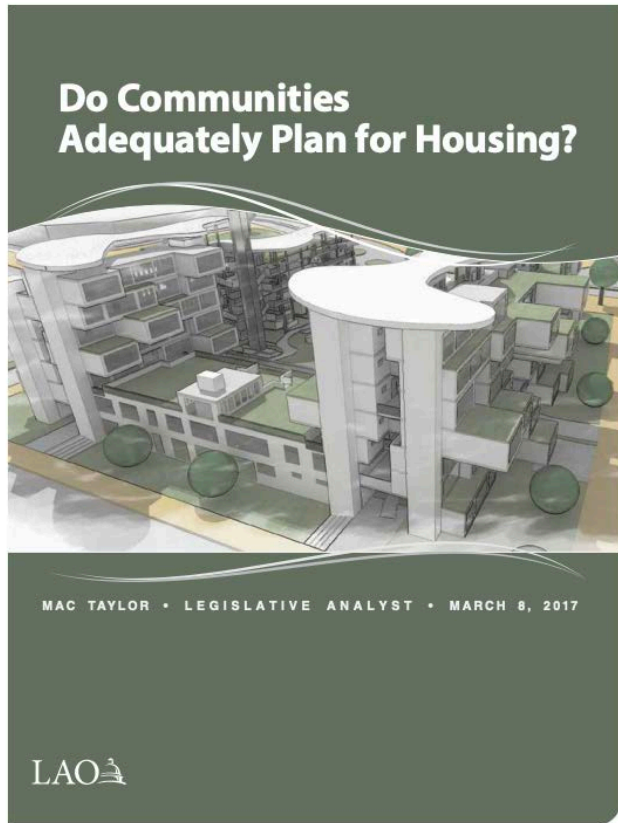
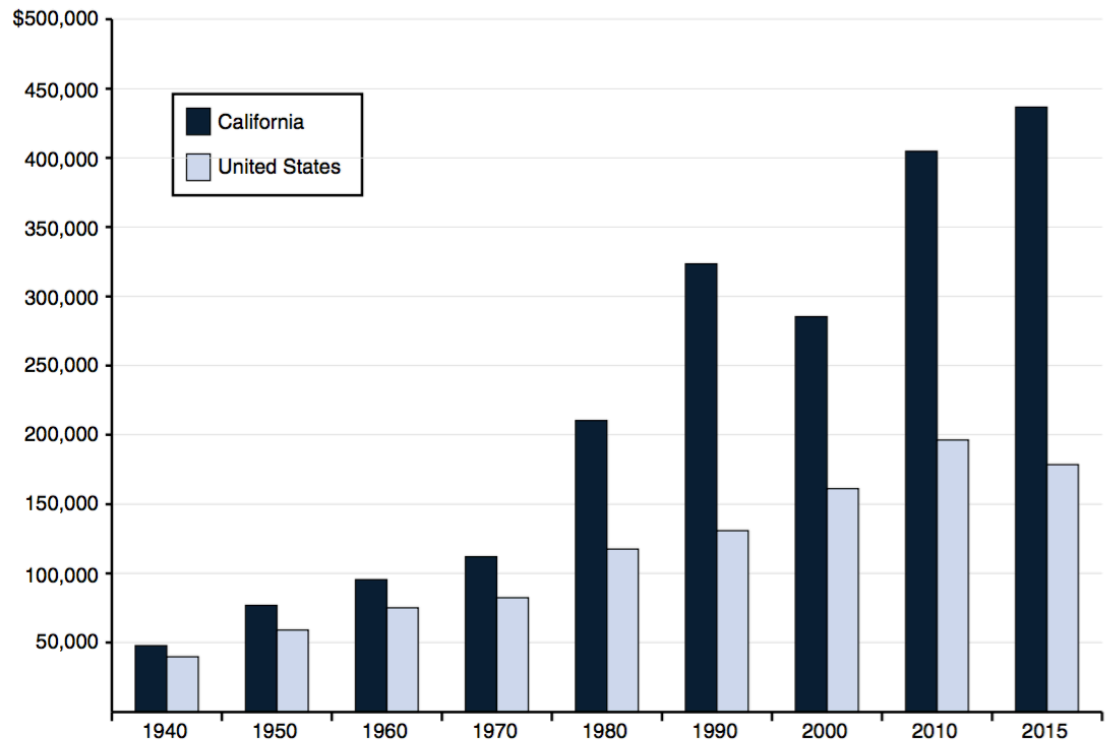


Figure 3

## California Home Prices Have Grown Much Faster Than U.S. Prices

*Inflation-Adjusted Median Home Prices in 2015 Dollars*



Source: Legislative Analyst's Office, Mar. 17, 2015

# How It Works

1. Every 8 years, state projects “regional housing need” for each of 20 regions (RHND)
2. Regional “Councils of Governments” allocate regional need to member cities & counties (RHNA)
3. Cities and counties adopt “housing element” of general plan, showing, with an inventory of sites, how they will accommodate their share of regional need during the planning period
4. Rezoning, if required to accommodate need, must be completed within 3 years of housing element’s adoption

[Lower-income need—about 40% of total—generally must be accommodated on sites zoned for statutory default densities; 30 du/acre in urban counties]



# What's different this time? (6<sup>th</sup> Cycle)

## 2. (More) Realism About “Realistic” Site Capacity ([AB 1397](#), [SB 6](#), [HCD Site Inventory Guidebook](#); [HCD Housing Element Completeness Checklist](#))

*Nonvacant Sites Analysis:* For nonvacant sites, demonstrate the potential and likelihood of additional development within the planning period based on extent to which existing uses may constitute an impediment to additional residential development, past experience with converting existing uses to higher density residential development, current market demand for the existing use, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites

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adjustments as appropriate to reflect new market conditions or changes in the regulatory environment. If no information about the rate of development of similar parcels is available, report the proportion of parcels in the previous housing element's site inventory that were developed during the previous planning period. For example, if past production trends indicate that two out of three similar sites were developed for

# What's different this time? (6<sup>th</sup> Cycle)

## 3. A Duty to Affirmatively Further Fair Housing ([AB 686](#))

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.

(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

### Berkeley votes for historic housing change: an end to single-family zoning

The unanimous vote kickstarts a 2-year-long process which would see about 9,000 more housing units at various income levels built over the next several years.

← Tweet



Matt Stevens  
@MatttStevens

...

INCREDIBLE turn of events in Santa Monica tonight. We're gonna end exclusionary R1 zoning.

Staff was directed to explore 100% affordable housing up to 4 stories, duplexes, lot splits, and more. All in the context of atoning for discriminatory land use decisions in the past.



Gleam Davis (she/her) @GleamDavis · Mar 31

It was a long meeting but the Santa Monica City Council just directed staff to draft a compliant housing element that meaningfully addresses historic exclusionary zoning practices by potentially permitting greater density in residential neighborhoods, including R-1 zones.

2:18 AM · Mar 31, 2021 · Twitter for iPhone

# What's different this time? (6<sup>th</sup> Cycle)

## 4. New State Laws Make It Riskier for Cities to Deny Plan- and Zoning-Compliant Projects ([SB 35](#), [SB 167](#), [AB 1515](#))



News

### Judge rules Los Altos violated state housing laws in blocking downtown project

by Kevin Forestieri / Mountain View Voice

Uploaded: Thu, Apr 30, 2020, 12:57 pm  
Time to read: about 3 minutes



A proposed [five-story development](#) in downtown Los Altos must proceed after a Santa Clara County Superior Court judge found the city violated Senate Bill 35 and other state housing laws in denying the project last year.

The April 24 ruling by Judge Helen Williams states that

SLIDESHOW



A proposed five-story housing project in downtown Los Altos can move forward after the city announced Sept. 5 that it will drop its legal battle against the controversial development.

The Los Altos City Council voted 5-0 over the weekend to drop its [appeal against the project](#) at 40 Main Street, citing the financial risks of continuing its fight against the development. If the city lost, it would have been required to pay out \$7 million on top of legal fees, threatening a critical blow to an already strained budget.

"The council determined that the potential cost of the litigation could severely impact the city's ability to provide even basic municipal services," city officials said in a statement Sept. 5. "In light of this huge financial risk to the city and the uncertainty and risk of losing the appeal, the City Council decided to withdraw the appeal."

# Conjecture: In Many Cities, the H.E. Update Will Be Single Best Opportunity for Pro-Housing Reform for Next Decade

## 1. NIMBYs have incentive to compromise, make a deal

- Cities w/o compliant housing element forfeit authority to deny or “render infeasible” 20% low-income / 100% moderate-income projects on basis of zoning code & general plan. [Gov’t Code 65589.5\(d\)\(5\)](#).



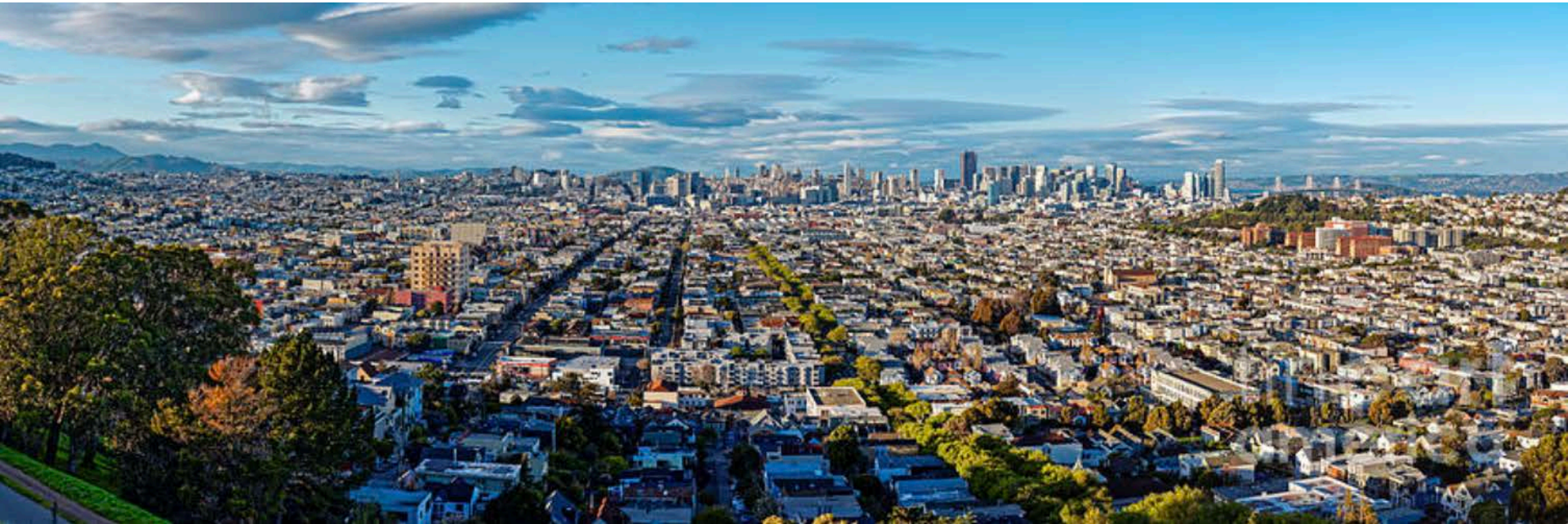


## 2. Housing element can be used to make the deal sticky (hard to undo)

- Any “fundamental, mandatory and clear” provisions supersede contrary municipal ordinances and regulations
- Amendments must be submitted to state housing department (HCD) for review & comment; HCD may respond to bad amendments by decertifying the housing element



3. Housing element update foregrounds citywide and regional interests, not neighborhood interests



4. Wins without winning? (Local knowledge puts the substantive bite in state law.)

