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WITH AB 2162'S BY-RIGHT APPROVAL PROCESS, STATE LAWMAKERS LEND A HAND TO SUPPORTIVE HOUSING

Of the crop of bills signed in the last legislative session that took effect as of January 1, 2019, AB 2162 has the potential to have the most immediate impact addressing the housing crisis. AB 2162 adds section 65650 to the Government Code to require cities (including charter cities) and counties to approve certain supportive housing developments as a use "by-right" in multi-family housing zones and mixed-use zones, including nonresidential zones permitting multi-family uses, within a prescribed timeframe.

LOCAL AGENCY APPROVAL PROCESS

Qualifying supportive housing must be approved as a "use by right," which means that the only discretionary approval permitted is design review, and the project is exempt from the California Environmental Quality Act (CEQA) so long as no subdivision is required. Cities and counties may require qualifying supportive housing projects to comply with objective, written development standards and policies, but only if such standards also apply to other multi-family developments within the same zone. In addition, no parking may be required for the supportive housing units if the project is located within a half mile of a public transit stop.

Cities and counties must notify developers whether an application for a supportive housing development is complete within 30 days of receipt of the application. The local agency must then complete its review within 60 days after an application for 50 units or less has been deemed complete, or within 120 days for projects with more than 50 units.

PROJECT QUALIFICATIONS

To qualify, 100 percent of the units in the development (excluding managers' units) must be affordable to lower income households, subject to a recorded affordability restriction for 55 years, and must receive public funding to ensure the affordability of the units. Any existing housing on the site occupied by lower income households must be replaced. At least 25 percent of a project's total units or 12 units, whichever is greater, must be supportive housing units. Supportive housing is defined in Health and Safety Code section 50675.14 as housing with no limits on stays that is occupied by the target population (homeless individuals, families, or youth, or those at risk of homelessness) and that is linked to onsite or offsite services. If the development has fewer than 12 units, then all of the units must be supportive housing units. For jurisdictions with a population of fewer than 200,000 people and 1,500 or fewer homeless persons, projects may not contain more than 50 units.

The developer of a supportive housing development must dedicate a certain portion of the project for onsite supportive services, with the size of the required space varying depending on the number of units in the development. Further, the developer must provide the local jurisdiction with a supportive services plan that describes the services to be provided, the service provider, the sources of funding for the services, and the staffing levels proposed for the services. Finally, each unit must contain at least one bathroom and a kitchen or other cooking facilities.

IMPLICATIONS

AB 2162 provides clear standards to both supportive housing developers and to cities and counties regarding which projects qualify and how qualifying projects must be reviewed. Cities and counties should expect to receive applications for qualifying supportive housing projects and should be aware of the special procedures summarized above. Affordable housing developers who are able to provide supportive housing will likely look to use these provisions to streamline project approvals. This tool may be especially attractive to developers with supportive housing projects who had hoped to utilize

streamlining under SB 35, but were unable to meet SB 35's many eligibility requirements. Notably, unlike SB 35, AB 2162 is applicable in the coastal zone, does not exclude sites that now contain housing, and contains no prevailing wage requirements. However, eligible supportive housing projects may still be subject to prevailing wage requirements, depending on the funding source utilized for construction and development.

For more information about this legislation, please contact Karen M. Tiedemann, Barbara E. Kautz, Eric S. Phillips, Nahal Hamidi Adler, or any other attorney at Goldfarb & Lipman LLP at 510-836-6336.

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