

March 27, 2019

The Honorable Scott Wiener  
Chair, Senate Housing Committee  
State Capitol, Room 2209  
Sacramento, CA 95814

**RE: SB 50 – Significant Concerns**

Dear Senator Wiener and members of the committee,

On behalf of the below signed organizations, we write to express our significant concerns with SB 50, as currently drafted. Our organizations are dedicated to ensuring that all Californians have a healthy and stable home that they can afford. Over the last several months we have valued your work to solicit our input and review the detailed feedback we have provided. However, SB 50, as drafted, does not yet address our most serious concerns and will further exacerbate the housing challenges experienced by low income people, people of color, and other vulnerable people, the very populations being hit hardest by California’s affordability crisis. Our concerns reflect input we have gathered from dozens of tenant organizing groups, non profit developers, legal service organizations, local, state, and national equity organizations, and other community based institutions, and fall into three broad categories: affordable housing, protections for sensitive communities, and preservation of local affordable housing policies and plans.

**SB 50 does not generate affordable housing at a level commensurate with the incentives it provides.**

SB 50 developments must include meaningful on-site affordable housing to mitigate indirect displacement pressures, advance environmental objectives by creating affordable housing near transit, and ensure inclusive housing opportunities for all Californians. SB 50 falls short of this important standard. The bill includes a provision making sites ineligible for “equitable communities incentives” if they have been occupied by tenants in the past 7 years or had Ellis Act evictions in the last 15 years, and this is essential to decrease direct displacement. However, this single provision on its own is insufficient to address the harm that the bill could cause. SB 50 must go further to protect vulnerable communities and increase affordable housing opportunities.

On February 5 – well before the most recent amendments to the bill – several of the undersigned organizations provided your office with comprehensive affordable housing policy recommendations for SB 50 that would promote inclusive development near transit. This proposal balances the needs of low-income families with feasibility for developers. It adjusts affordability obligations based on the new density created by SB 50 on a project-by-project basis - recognizing that the greater the density increase, the more value is being given to the developer. It does so by building off an existing statewide model, the Density Bonus Law, and by creating a simplified system of tiers with minimum and maximum required affordability at different density increases. This proposal will create new units for people most burdened by our state’s housing crisis, Extremely Low Income households, and ensure affordable housing options for those most vulnerable to homelessness. This proposal draws on the lived experiences in low-income communities, and applies lessons from successful programs like LA’s Transit Oriented Communities (TOC) program. If SB 50 had included this proposal, it could have been a tool for addressing the needs of those most impacted by California’s housing crisis.

As currently drafted, however, SB 50 does not adequately ensure that new developments will provide affordable homes at a level commensurate with the benefit they receive through the new incentive program.

- SB 50 currently rejects a value capture framework – affordable housing standards aren’t tied to density increase, creating arbitrary outcomes and leaving significant affordability on the table. Unlike State Density Bonus Law, SB 50 breaks the connection between the value of the incentives and the amount of affordable housing required. A 50 unit project might receive a substantial density increase where existing height limits are low, while a 300 unit project might receive a lower density increase where existing height limits are relatively higher.
- SB 50 undermines the state’s density bonus law by awarding triple the density increase (or more) of state density bonus law, without any increase in affordability for most projects. It also remains unclear whether the bill would offer additional incentives to SB50 projects under density bonus law that could further dilute the already inadequate affordable housing provisions.
- SB 50 makes Extremely Low Income units optional, which could leave the most vulnerable families left out altogether, or pit their needs against those of Low Income households.
- SB 50 provides no guarantee that projects would provide any additional affordable units in jurisdictions with local inclusionary housing requirements, despite conferring significant additional value to a project.

- SB 50 includes a major loophole by offering a fee option that would allow any development to avoid onsite affordability. This will create delays in new affordable housing, less affordability near transit, more pollution, and more segregated communities.
- As currently drafted, SB 50 does not include any affordability contributions for projects under 10 units.
- The new amendments to SB 50 also deleted a provision that would have helped close a major loophole where projects can bypass the incentive program entirely and gain density without affordability through a zone change.

Despite these serious concerns, we are encouraged that your office has re-engaged with us on this important issue in the last week. We sincerely hope that these conversations lead to amendments to SB 50 that address our concerns prior to its next committee hearing. To highlight some of our key asks (as detailed in Attachment A), SB 50 must:

- Apply a value capture model where affordable housing requirements are appropriately scaled to the amount of value and density created by the bill.
- At each tier of density increase, projects should provide a required subset of units affordable to Extremely Low Income households, along with a choice between additional Very Low Income units or a higher amount of additional Low Income units.
- DO NOT allow SB 50 projects to avoid inclusivity by paying an in-lieu fee.
- Projects utilizing “equitable communities incentives” should provide additional affordable housing beyond what would otherwise be required by a local inclusionary zoning policy.

**SB 50 provides inadequate protections for sensitive communities at risk of displacement.**

Every community in the state has a role to play in addressing the affordable housing crisis. But our cities, towns and communities have been shaped by different histories, economic drivers and present-day conditions. State policy must be responsive to these differences. Race and class inequality and top-down policies that excluded people of color and low income people, such as redlining and Urban Renewal, have had devastating, multi-generational consequences on these communities while further concentrating wealth and opportunity in others. SB 50’s preemption of local zoning and planning must not repeat and exacerbate the deliberate harms of the past.

To protect sensitive communities, SB 50 must accurately identify all sensitive communities *and* preserve meaningful self-determination in those communities so that they can plan for an

inclusive future. Some of our key asks to accomplish these objectives (as detailed in Attachment B) include:

1. Vulnerable communities in each region must be engaged in developing sensitive communities maps to ensure that *all* sensitive communities are protected. Dramatic variation in demographics and displacement dynamics means that a top-down statewide approach to mapping will inevitably fail to reflect the reality on the ground. Vulnerable populations, including low-income people, people of color, renters, and others, must have the power and flexibility to use their real world expertise to ensure that *all* at-risk neighborhoods are fully reflected in sensitive communities maps. Implementation of SB 50's equitable communities incentives must be delayed for this mapping process.

SB 50 does not currently meet this standard, instead relying on a crude top-down approach to identifying sensitive communities. This is flawed in numerous ways: it provides no way for vulnerable communities to ensure the maps fully identify their neighborhoods; it identifies only the poorest census tracts, excluding areas at high risk where gentrification is already under way; and it relies on census tract level data, which creates problems both in urban areas – where this can leave single neighborhoods as a patch-work of protected and unprotected areas – and in rural areas where geographically large census tracts can hide sensitive communities altogether. One example of the flawed nature of the current methodology is the almost complete lack of identification of any sensitive communities between Merced and Modesto, despite the fact that this area, comprised of a number of high poverty predominantly Latino neighborhoods and communities, is facing rapid housing cost increases and housing instability due to the influx of coastal Californians.

SB 50's reliance on MTC's "CASA" maps is also problematic. MTC disrupted CASA's months-long stakeholder mapping efforts at the very end of the CASA process, rejecting the work done by community stakeholders in favor of an entirely new methodology and maps. These MTC maps do not reflect the expertise of vulnerable communities or realities on the ground, and fail to accurately identify sensitive communities in the region. More work is needed to get the Bay Area's sensitive communities maps right.

2. Sensitive Communities should enjoy full self-determination about whether to opt-in to SB 50's "equitable communities incentives" or to adopt an alternative neighborhood plan. Decisions about opting-in or planning should be made with neighborhood-level control, not simply by municipal governments, and this decision-making process should prioritize engagement of low-income people, renters, and other vulnerable community members.

SB 50 currently vests local government bodies with the sole authority to make decisions about sensitive communities, which could leave neighborhoods that often lack political power with little meaningful self-determination. Mechanisms are necessary to ensure that low-income people, renters, and other vulnerable groups that call sensitive communities home are able to exercise decision-making authority about their neighborhoods. Moreover, the bill currently leaves open the window within which communities may opt for local plans rather than SB 50 default zoning standards.

3. Neighborhood plans in sensitive communities, whenever they were adopted, should take precedence over SB 50 defaults, as long as they meet basic minimum community engagement, affordable housing, and labor standards.

This appears to be the current intent of SB 50, as currently drafted, but the bill text should make affordable housing and labor standards more explicit. Language about existing community plans may need to be clarified as well.

**SB 50 must fully protect local affordable housing policies and strong local plans.**

Across California, local jurisdictions are grappling with the dual challenge of increasing income inequality and rising housing prices. To tackle these problems, communities have adopted a range of strategies aimed at increasing the supply of housing affordable to their most vulnerable residents, and protecting existing residents from displacement. These strategies include incentive programs such as the Transit Oriented Communities program in Los Angeles and the HOME-SF program. They also include neighborhood plans that balance the need for new multi-family housing development with preservation of existing community assets.

SB 50 does not include clear guidance as to how these local policies and plans will be treated. The bill should be amended to fully protect and build on these local initiatives – including authorizing local governments to modify or adopt new programs after bill enactment – and ensure that it does not supplant them.

In closing, we hope that over the coming days and weeks we can work with you and your bill sponsors to address our serious concerns and craft a policy that will truly protect and benefit our most vulnerable Californians.

Sincerely,

Laura Ray  
Director  
Alliance for



Tiffany Eng  
Green Zones Program Manager  
California Environmental Justice Alliance



Brian Augusta  
Legislative Advocate  
CA Rural Legal Assistance Foundation



Gen Fujioka  
Policy Director  
Chinatown Community Development Center



Maricela Morales  
Executive Director  
Central Coast Alliance United for a  
Sustainable Economy (CAUSE)



Jeffrey Levin  
Policy Director  
East Bay Housing Organizations



Isela Gracian  
President  
East LA Community Corporation (ELACC)




Rabeya Sen  
Director of Policy  
Esperanza Community Housing Corporation



Sonrisa Cooper  
Environmental Equity Fellow  
The Greenlining Institute



Tyrone Buckley  
Policy Director  
Housing California



Alexandra Suh  
Executive Director  
KIWA (Koreatown Immigrant Workers  
Alliance)



Ashley Werner  
Senior Attorney  
Leadership Counsel for Justice and  
Accountability



Sabina Crocette  
Policy Manager  
Legal Services for Prisoners with Children

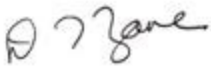


Grant Sunoo  
Director of Planning  
Little Tokyo Service Center (LTSC)

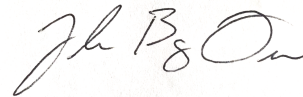
Mindy Garland  
Lead Organizer  
Los Angeles Black Worker Center



David Levitus, Ph.D.  
Executive Director  
LA Forward



Denny Zane  
Executive Director  
Move LA



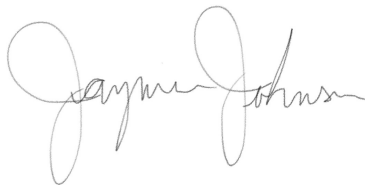
Flor Barajas Tena  
Deputy Director  
Orange County Communities Organized for  
Responsible Development (OCCORD)



Tamie Dramer  
Board Chair  
Organize Sacramento



Maryann Aguirre  
Project Director  
People for Mobility Justice (PMJ)



Jazmine Johnson  
Land Use and Health Program Associate  
Physicians for Social Responsibility-Los  
Angeles



Chione Flegal  
Managing Director  
PolicyLink



Sam Tepperman-Gelfant  
Deputy Managing Attorney  
Public Advocates



Doug Smith  
Staff Attorney, Community Development  
Public Counsel



Michael Rawson  
Director  
Public Interest Law Project



Stan Keasling  
CEO  
Rural Community Assistance Corp.



Cynthia Strathmann  
Executive Director  
SAJE (Strategic Actions for a Just Economy)



D'Artagnan Scorza, Ph.D.  
Executive Director  
Social Justice Learning Institute

Sissy Trinh  
Executive Director  
Southeast Asian Community Alliance



Alan Greenlee  
Executive Director  
Southern California Association of NonProfit  
Housing



Jim Mangia  
President & CEO  
St. John's Well Child & Family Center



Chanchanit Martorell  
Executive Director  
Thai Community Development Center



Oscar Monge  
Community Development Manager  
T.R.U.S.T. South LA

Becky Dennison  
Executive Director  
Venice Community Housing

Anya Lawler  
Policy Advocate  
Western Center on Law and Poverty

Dauras Cyprian  
Senior organizer  
All Of Us None

Mark Wilson  
President & CEO  
Coalition for Responsible Community  
Development

Hector Huevo  
CA Organizer  
Jobs to Move America

Luis Cabrales  
Executive Director  
Inquilinos Unidos

Greg Spiegel  
Director of Strategic Initiatives  
Inner City Law Center

Manjusha P. Kulkarni  
Executive Director  
Asian Pacific Policy and Planning Council

Benjamin Torres  
President & CEO  
Community Development Technologies



Maria Brenes  
Executive Director  
InnerCity Struggle

Maria Lou Calanche  
Executive Director  
Legacy LA Youth Development Corporation



Rebecca Green  
Southern CA Organizer  
Bend the Arc: Jewish Action of Southern  
California

Scott Chan  
Program Director  
Asian Pacific Islander Forward Movement



Jessica Meaney  
Executive Director  
Investing in Place

Lolita Andrada Lledo  
Associate Director  
Pilipino Workers Center



Paulina Gonzalez-Brito  
Executive Director  
California Reinvestment Coalition

United Neighbors in Defense Against  
Displacement (UNIDAD)

Reginald Johnson  
Executive Director  
Willowbrook Inclusion Network

LA Voice

***Additional signatories (updated April 1, 2019):***

Coalition for Responsible Community Development  
Jobs to Move America  
Inquilinos Unidos  
Inner City Law Center  
Asian Pacific Policy and Planning Council  
Community Development Technologies  
InnerCity Struggle  
Legacy LA Youth Development Corporation  
Bend the Arc: Jewish Action of Southern California  
Asian Pacific Islander Forward Movement  
Investing in Place  
Pilipino Workers Center  
United Neighbors in Defense Against Displacement  
California Reinvestment Coalition  
Willowbrook Inclusion Network  
LA Voice  
WORKS  
SCOPE  
West Angeles CDC  
Housing Long Beach

***Attachments:***

- A. Proposal from Equity Groups on Affordable Housing
- B. Proposal from Equity Groups on Sensitive Communities

**Attachment A: Proposed SB 50 Affordability Standards**

**Attachment B: SB 50 Sensitive Communities Proposal from Equity Groups**

Every community in the state has a role to play in addressing the affordable housing crisis. But our cities, towns and communities have been shaped by different histories, economic drivers and present-day conditions: state policy must be responsive to these differences. Specifically, race and class inequality and top-down policies that ignored the voices of people of color, such as redlining and Urban Renewal, have burdened specific communities while concentrating wealth in others. As the Bay Area’s CASA Compact observed, “segregated housing patterns — both by race and by income — are a legacy of decades of discriminatory government policies and private sector lending practices” and therefore there must be “protections for neighborhoods and residents most affected by that horrible history.”

As applied to SB 50, the “equitable communities incentives” that would override local zoning and planning should be deferred in sensitive communities that are vulnerable to displacement. This is a common-sense middle-ground - recognizing that these communities can grow and change, but that they deserve sufficient time and self-determination to plan for an inclusive future for their neighborhoods.

The fundamental purpose of deferring state preemption of local zoning and land use authority in sensitive communities is to ensure communities vulnerable to displacement have an opportunity for self determination so that they can thrive rather than being displaced. To accomplish this purpose, it is essential that impacted communities be engaged in all aspects of the process - from the mapping of sensitive communities through decisions about “opting-in” or adopting alternative local plans.

### **Core Principles for SB 50 Sensitive Communities Policy**

1. **Low-income communities and communities of color in each region must be engaged in ground-truthing sensitive communities maps.** Statewide data can help identify parameters to guide sensitive communities mapping, but the enormous diversity in local conditions around the state means that local input from community-based organizations and community members is essential to get the maps right. We recommend the identification of general data to inform sensitive communities mapping (see comments on data below), with a robust process for regional refinement of these maps to ground-truth them based on local knowledge and conditions.
  - a. **Community Process.** To ensure meaningful community involvement, we recommend:
    - i. A working group in each region to shape the maps for each region. The work groups should be representative of vulnerable populations in the region, such as renters, low-income people, and people of color.
    - ii. A public hearing process in low-income communities throughout the region, held at accessible times, locations, and manners. Ideally community-based organizations should be resourced to help plan and run these meetings.
  - b. **HCD Oversight.** HCD should review regional maps and be the arbiter of edge cases, as opposed to local governments. Its greater distance from local political pressures should result in less mis-identification of neighborhoods. An appeal process to HCD should rest with a neighborhood, rather than requiring action by a local city council or board of supervisors, because sensitive communities often lack political power with these bodies.
  - c. **Geographic Units.** For urban areas, a sensitive community may comprise one or more contiguous census tracts. For rural areas, census block group data may be necessary since lower population density means tract-level data often fails to capture local conditions.
  - d. **Dynamic vs. Static Data Points.** Data considered for identification of sensitive communities should measure change over time, not simply a static point in time metric, as many vulnerable communities have already experienced some degree of gentrification and displacement and may not appear vulnerable if only on snapshot is considered. Useful data points might include rising property values, and a high (and/or declining)

number of low-income renters. Similarly, data should measure *potential* for displacement if SB 50 were to apply, not just actual displacement under non-SB 50 conditions.

- e. **Tailored Data Analysis.** Data used must be adjusted for variations across regions of income, racial demographics, percentage of renters, etc. Vulnerability to displacement is something that must be examined within the local context, not something that can be measured by fixed statewide standards (e.g. % poverty using a fixed dollar amount for poverty level). Maps should be reassessed periodically.
  - f. **Problems with Bay Area Mapping:** The MTC-generated maps in the CASA compact do not represent the consensus of community groups in the Bay Area and need to be expanded to include additional vulnerable communities, since some areas in more advanced stages of gentrification did not show up in MTC's methodology. The maps may also be over-inclusive of some census tracts with a large percentage of college students.
2. **Implementation of SB 50's equitable communities incentives should be delayed until sensitive community maps have been developed.** We cannot be sure that vulnerable communities are protected until they have been identified, and they cannot accurately be identified without community engagement. We propose, at minimum, a one year delay in implementation of the "equitable community incentives" to allow for this process.
  3. **Application of SB 50 upzoning and development standards should be automatically deferred in sensitive communities** to allow these communities the opportunity to adopt plans for growth that will support rather than displace them. The deferral period shall be indefinite, but shall allow communities to opt-in at any time, see below.
    - a. During this deferral, however, any spot or plan-based upzoning should still be required to meet at least the minimum affordability and anti-displacement provisions in SB50.
  4. **Sensitive Communities should have the option to "opt-in" to SB 50's equitable communities incentives through a neighborhood-level process at any time.** This must involve meaningful neighborhood-level leadership in any decision to opt-in, including but not limited to:
    - a. A Community Advisory Committee (CAC) shall be established by for each jurisdiction and/or for each sensitive community to determine whether to "opt-in" to SB 50 default standards. Each local government shall appoint a CAC that is representative of sensitive community residents by tenure (% renter, % homeowner), income, and other important characteristics of vulnerability to displacement.
    - b. Community Hearings. The local agency with jurisdiction over land use and zoning, in partnership with the CAC, shall conduct substantial public consultation with residents of the identified sensitive communities, with a minimum of three public hearings in the community, to consider a proposal to opt-in.
  5. **Existing or future neighborhood plans should take precedence over SB 50 defaults in sensitive communities, as long as they meet basic minimum standards.** Suggested standards:
    - a. Neighborhood plans must require at least the minimum affordability levels, labor standards, and anti-displacement protections in SB 50. If these standards are lower in a neighborhood plan, then SB 50 affordability minimums should apply, with the neighborhood plan governing in other respects.
    - b. Neighborhood plans must include some residentially zoned capacity for development of multifamily housing at density levels in SB 50.
    - c. Neighborhood plans should be explicitly permitted to include zoning and development standards designed to protect residents and local businesses, historic and cultural resources, and other community assets.

- d. Neighborhood plans must include a localized assessment of displacement risks to residents, businesses, cultural and community organizations, and other cultural and community assets. The drivers of those risks must be analyzed, and policies put in place to avoid or substantially mitigate those risks.
  - e. Neighborhood plans must be developed through a meaningful public process that facilitates and results in engagement by a significant and diverse subset of the population. Actions taken to engage the public and outcomes shall be demonstrated.
6. **Community planning should be resourced, with funding for engagement, capacity building, and technical assistance specifically earmarked to support participation of low-income residents.** The state should commit meaningful funding to support these local planning processes.