



City of Whittier

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Joe Vinatieri
Mayor

Cathy Warner
Mayor Pro Tem

Octavio Martinez
Council Member

Fernando Dutra
Council Member

Mary Ann Pacheco
Council Member

Brian Saeki
City Manager

April 29, 2024

The Honorable Anna M. Caballero
Chair, Senate Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

**RE: SB 1037 (Wiener) Planning and Zoning: Housing Element:
Enforcement (As Amended 4/25/24)
Notice of Opposition**

Dear Senator Caballero:

As Mayor for the City of Whittier, I am writing to express our opposition to SB 1037 (Wiener), which would allow the Attorney General to take legal action against a city and seek fines up to \$50,000 a month for failure to adopt a compliant housing element or if the city does not follow state laws that require ministerial approval of certain housing projects. This bill, in its current form, presents significant concerns for local governance, financial stability, and community development.

While the City of Whittier fully recognizes and supports the necessity of addressing California's housing crisis, SB 1037 undermines the ability of local governments to manage growth in a manner that reflects the unique needs, resources, and challenges of their communities. The approach proposed in SB 1037 is notably punitive and could divert critical local funds from essential services such as public safety, education, and infrastructure maintenance into legal defenses and fines.

Under existing law, cities can already be subject to significant fines and penalties for violating certain housing laws, but before fines are imposed, a city can correct the action. Additionally, enhanced fines are not imposed unless the city fails to follow a court's order or acts in bad faith. Unfortunately, as currently drafted, SB 1037 does not provide an opportunity for cities to correct an honest mistake or address a genuine difference in interpreting the law. Even those jurisdictions acting in good faith could be subject to significant fines and be required to pay the Attorney General for all costs investigating and prosecuting the action, including expert witness fees and attorney's fees.

The recent amendment to require that the penalties established only apply when local land use decisions or actions are "arbitrary, capricious, entirely lacking in evidentiary support, contrary to established public policy, unlawful, or procedurally unfair" does little to assuage the concerns of local governments since the bill does not include a definition for the actions that would be considered "arbitrary" or "capricious." The City of Whittier believes that collaboration, rather than punishment, between state and local governments is essential in solving the

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housing crisis. Whittier has been proactive in updating its housing element and streamlining housing approvals. Our efforts include providing pre-approved construction ADU plans free of charge to our residents and actively working toward reaching our Regional Housing Needs Allocation (RHNA) numbers in the sixth cycle. To illustrate, through its adoption of the General Plan and Housing Element, the City identified areas for over 3,000 new units in the next cycle. A more supportive and less adversarial approach from the state would facilitate these local efforts, helping to achieve our mutual goals more effectively and sustainably.

For these reasons, the City of Whittier respectfully opposes SB 1037.

Sincerely,



Joe Vinatieri
Mayor

c: Senator Scott Wiener
Senator Bob Archuleta
Assembly Member Lisa Calderon
Whittier City Council
Kristine Guerrero, Cal Cities
League of California Cities