



SB 469 (Allen) to Exempt LIHTC- and HCD-funded Developments from Article XXXIV of the State Constitution

Summary

Similar to other affordable housing finance programs that the Legislature has exempted from Article XXXIV of the State Constitution, SB 469 exempts developments that receive a loan or grant award from the Department of Housing and Community Development (HCD) or a reservation of low-income housing tax credits from the Tax Credit Allocation Committee.

Problem

Since adopted by initiative in 1950 as a backlash to affordable housing, Article XXXIV of the State Constitution requires voter approval when “any state public body” seeks to develop affordable rental homes. These days, public entities rarely develop affordable housing. Rather, they finance development by the private, often non-profit, sector. Nonetheless, state housing agencies continue to require verification of Article XXXIV compliance before developments may proceed. Article XXXIV is an anachronistic provision that was intended to prevent low-income families, particularly families of color, from integrating exclusive communities and has no place in 21st century California. It is noteworthy that the original sponsor of Article XXXIV, the California Association of Realtors, is now supportive of its repeal. Moreover, this article adds to the cost of developing desperately needed affordable homes by causing delays and uncertainty that must be resolved by elections and by increasing attorney hours to document compliance. Lastly, the local land use and funding process already allows significant public comment on and engagement in proposed developments. Additional voter approval requirements provide no positive benefits.

Solution

Similar to the current statutory exemptions for the Homekey Program, the Housing Accelerator Program, the Portfolio Restructuring Program, and the Veterans Housing and Homelessness Prevention Program, this bill exempts from Article XXXIV any development that receives an award of HCD funds or a reservation of low-income housing tax credits.