



Add housing to the list of crises that remain unsolved because lawmakers are frozen by powerful competing interests. Several solutions are under consideration at the Capitol, but prospects appear dim for the serious reform needed to accomodate California's growing population.

By William Fulton
and Paul Shigley

The housing crisis continues unabated in California. Though housing production is expected to hit almost 180,000 units in 2003 — the highest figure in more than a decade — that is still about 50,000 houses, apartments and condominiums less than is required to meet demand on an annual basis. So perhaps it is not surprising that, even with a sluggish economy, the state's average home price has risen 15 percent during the last year to about \$350,000, according to the California Association of Realtors.

Yet the prospect of major housing policy reform in Sacramento appears to be slipping away for the umpteenth year in a row. A controversial effort by Senator Joe Dunn (D-Santa Ana), to create a state appeals board that could override local housing decisions has fallen by the wayside for the year. Even



The state has pressured local governments to identify and rezone land that could be used for apartments and other high-density housing, such as this new development in San Francisco. Photo: Bridge Housing

a mostly technical reform of the state's housing requirements carried by Assemblyman Alan Lowenthal (D-Long Beach), chair of the Housing Committee has been postponed until 2004. And facing an enormous budget deficit, the administration of Governor Gray Davis has been robbed of the only tool it's been willing to use to goose housing production financial incentives for local governments. In fact, if voters had not approved a \$2.1 billion housing bond last fall, there might be almost no state money at all for housing.

Part of the reason that housing policy is not likely to be overhauled in 2003 is the gridlock created by a host of powerful interest groups that have very different views for what constitutes policy "reform." Builders and real estate interests want fewer rules. Housing advocates want more units for poor people. Environmentalists want more protection for the flora and fauna, not to mention the air and water. And local government officials want to maintain the authority to shape their communities.

Another reason for continuation of the status quo is that no one really knows the purpose of the state's housing policy. The Legislature declared housing a matter of statewide concern more than 30 years ago when the main

housing problem was not quantity but, rather, fairness. Today housing lobbyists in Sacramento are focused instead on new regulations to clear out local government barriers to housing construction.

As a result, a primary source of the gridlock on housing issues is the tension between state and local authorities. Since housing developments are approved by local officials, state lawmakers have tried to encourage new housing construction with a strategy of carrot-and-stick policies for cities and counties. But local governments are such a powerful lobbying force in the Capitol that they have blocked most attempts to force compliance on cities and counties. And now the carrots financial incentives — are prevented by the budget deficit.

"We keep getting blamed in the halls of the state Legislature for apartments not getting built, when the private markets don't want to build them," said Daniel Carrigg, a lobbyist for the League of California Cities. "We can't approve it if the private developers are not asking to build it."

Such sentiments are typical of local government officials, who resent the fact that state housing policy is directed primarily at them, even though many other fac-

tors help determine how much housing is built in the state. So the locals resist tweaking current state housing policy — even as the Legislature is apparently not ready for more sweeping change that might get at the root of the problem.

California is one of the few states that sets state-level standards for housing production, through a regulation called the “Regional Housing Needs Allocation.” It requires that cities and counties adopt a “housing element” that shows how they will build enough homes to satisfy their share of the statewide allocation. It is a unique state law and one of the most ambitious attempts in the country to encourage housing production.

But even though California’s system appears strong on paper, it does not work well in real life. The process of allocating five-year numerical targets for housing production is a top-down process that begins in Sacramento, and it engenders huge resentment from the local governments. In the biggest recent battle over housing elements, Southern California cities fought a two-front war against the state and against their own regional planning agency, the Southern California Association of Governments.

In that case, the state Department of Housing and Community Development agreed to reduce the five-year housing target for the six-county SCAG region from 630,000 new housing units to 500,000 units. But that wasn’t enough for many Inland Empire cities, who still felt the powerful coastal cities in Los Angeles and Orange counties were

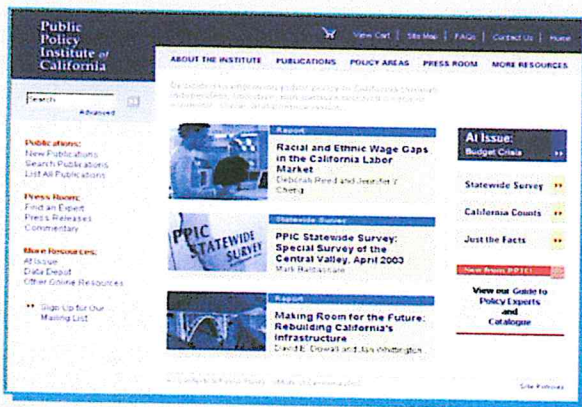
dumping too much responsibility for housing on them. SCAG was unsuccessful in lobbying the state for an even lower housing target — about 437,000 units. The result was a confusing lawsuit in which a Riverside County judge ruled that both SCAG and HCD were at fault. In a ruling last March, the judge urged all parties to start planning for the next round of housing allocations.

Of course, all this paper shuffling may not do much good. A recent report from the Public Policy Institute of California, an independent think tank in San Francisco, found there is little difference in housing production between local jurisdictions that have adopted a set of housing goals and those that have not. (State officials disputed the results.) Researcher Paul Lewis concluded the big problem is that the purpose of the housing element is unclear.

Originally, the housing element law was designed as a “fair housing” measure to force upscale cities to plan for housing that was affordable to different income groups. But since residential development in the state tanked during the early 1990s, the state has increasingly attempted to use the housing element law as a lever to boost supply. Thus, for example, the state has pressured local governments to identify and rezone land that could be used for apartments and other high-density housing.

Overhauling this process has been on everybody’s agenda in Sacramento for more than a decade, but because of the political stalemate it has never happened.

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Governor Davis signed a bill last year making it easier to build "granny flats," but cities have resisted. Photos: Bridge Housing

After meeting with a group of lobbyists recently, Assembly Housing Committee Chairman Lowenthal introduced a bill this year (AB 1158) that contained a series of changes to the housing allocation process. The bill would give more power to regional planning agencies — rather than the state — to determine housing need, and would also convert the housing allocation process to a six year-process so that it runs on the same timeline as transportation plans. But that bill, which drew support from local governments and opposition from housing advocates, is not going anywhere. Lowenthal decided to ice it for 2003 and move it forward again in 2004.

Increasingly, frustrated legislators and lobbyists are looking for ways to end-run the state's core housing policy and find other ways to stimulate housing production. These bills may stall as well because most of them are also aimed at local government. In particular, they are aimed at prohibiting cities and counties from turning down proposals for new housing developments when those proposals conform to the planning policies that those cities and counties have already adopted.

In 2002, Governor Davis signed AB 1866 to make it easier for individual homeowners to build "granny flats" — also called second units — which are small rental dwellings in neighborhoods of single-family homes. The measure requires cities and counties to approve second units automatically when they comply with the local government's housing plans.

Housing advocates hailed the passage of the bill, but it has had a predictable result: Local governments are now toughening up their second-unit ordinances. Second-unit ordinances have long been a staple of local housing plans, and on paper, approval has usually appeared easy. But in the wake of AB 1866, cities are requiring that the property owner live in the main unit and provide offstreet parking. The new city of Goleta, near Santa Barbara, is proposing that granny flats cannot be located within more than 200

feet of one another — meaning, for example, that next-door neighbors could not both have granny flats. The city also wants to apply the new ordinance retroactively to hundreds of "bootleg" units created prior to its incorporation.

As a follow-up, Assemblyman Darrell Steinberg (D-Sacramento) has introduced a bill this year (AB 1160) that would eliminate "unreasonable" second-unit standards. But that bill has stalled as well.

Of course, granny flats are never likely to make up a large portion of the overall housing stock in California. Other ideas are floating around that would take aim at bigger fish. By far the most controversial is SB 744 by Senator Dunn, the former chairman of the Senate Housing and Community Development Committee. Dunn's bill would create a state appeals board that would be empowered to reverse local government decisions on some housing projects. Dunn's idea is that the committee could overturn a local

decision if that decision was unreasonable and inconsistent with meeting local housing needs. The committee could also modify or remove a city or county's conditions of approval.

Dunn's idea is not new. It has been used in some other states and has been floating around Sacramento since the late 1980s, when then-Assembly Speaker Willie Brown (D-San Francisco) was considering a major reform of local government structures. Like most housing legislation this year, however, SB 744 has become a "two-year" bill.

A former trial lawyer who has set his sights on a run for the attorney general's job in 2006, Dunn has been aggressive in pushing legislative ideas that might increase housing production. Dunn has been willing to target both the private sector and local government. As committee chair, he was instrumental in brokering a deal last year to limit construction defect liability on condominium projects — a problem that everyone agreed was harming the ability of the building industry to construct multi-family projects.

The insurance carriers have been slow to re-enter the California market, however. Dunn has made noises about holding hearings in Sacramento, forcing the carriers to open their books and explain why they are not insuring condominium projects, but so far nothing has happened. In the meantime, housing production has inched upward, even as prices have continued to go through the roof.

There are many other ideas floating around Sacramento, some of which seek to reward local governments financially for approving new residences rather than forcing cities and counties to do it. But with the large state budget deficit, these efforts too seem ill-fated. Even as the average home price tops \$350,000, it seems that Sacramento will not solve the housing crisis soon. 🏠

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