

April 1, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Newsom:

Thank you for issuing an executive order requiring California residents to shelter in place. This decision will unequivocally save lives. We are proud to live in a state with courageous and prudent leadership.

We also thank you for recognizing construction as an essential service during this stressful time. The undersigned organizations fight in cities across California to ensure that city councils, planning commissions and planning departments plan for and approve housing sufficient to meet California's burgeoning needs. As you can imagine, it is a strenuous effort.

It has come to our attention that the League of Cities is requesting that you pause certain statutory requirements, including requirements relating to the review and approval of housing development projects, and timelines related to submitting Housing Elements.

We are writing to OPPOSE the requests related to approving housing, and SUPPORT the request related to submitting housing elements.

The League's requests, if granted, would indefinitely *halt* the timely processing of housing approvals - even those that can be processed with no threat to public health. The State should be doing the exact opposite: taking strong action to ensure that the processing of desperately needed housing *continue*, so that California does not fall even further behind the pace needed to produce the 3.5 million homes you have called to be built by 2025 to meet the statewide housing crisis.

The League of Cities is specifically asking for the following relief from deadlines related to approving housing:

Review and Approval of Development Projects

Extend the deadlines in the Permit Streamlining Act (Gov. Code § 65920 et seq.), Housing Accountability Act (Gov. Code §65589.5), Subdivision Map Act (Gov. Code § 66410 et seq.), and Government Code section 65852.2, relating to Accessory Dwelling Units, by 120 days from when the deadline would otherwise expire if the deadline would have expired during the State of Emergency or the application is submitted during the State of Emergency.

California Environmental Quality Act

Direct the Governor's Office of Planning and Research to adopt guidelines extending lead agency deadlines established pursuant to the California Environmental Quality Act by 120 days from when the deadline would otherwise expire if the deadline would have expired during the State of Emergency, including but not limited to:

Public Resources Code Section 21000 et seq., which sets forth the requirements of environmental review of projects and establishes publication and public comment periods, as that section applies to applications deemed complete prior to the declaration of the State of Emergency;

CEQA guidelines section 15102, which provides 30 days to determine whether an EIR or Negative Declaration will be required;

CEQA guidelines section 15103, which provides a 30 day window within which an agency must review and comment on a notice of preparation;

CEQA Guidelines section 15104, which requires that a meeting requested by a project applicant be convened within 30 days of the request;

CEQA guidelines section 15105, which establishes the public agency review period for a draft environmental impact report or negative declaration;

CEQA guidelines section 15107, which provides that a negative declaration for a private project must be completed within 180 days of the application being deemed complete.

CEQA guidelines section 15108, which provides that an environmental impact report for a private project must be completed within one year of the application being deemed complete.

We oppose these two requests for relief.

There are two reasons we oppose the League of Cities request. First, housing is essential infrastructure, and all parts of the housing production process should be under the same rule. Your office has determined that housing construction is essential. If housing is sufficiently essential that your office has decided that employees who physically build it should continue to work, then there is no policy justification for applying a different rule to other parts of the production process. All parts of the process to produce [and convey] housing should fall under the same rule.

Second, the work of planners in processing applications for permits can be done remotely; therefore, there is no public health justification for suspending that work. The planning approval portion is the safest part of the housing production process. The League of Cities is asking you to apply a different safety standard to a professional class of workers, who already enjoy a safer work environment, than to construction workers and laborers. We oppose giving preferential treatment to white collar workers.

To support their request, the League of Cities points out that city staff time is being diverted due to new work related to the coronavirus, so city staff does not have the time to do the work necessary to meet the timelines in the California Environmental Quality Act, the Permit Streamlining Act, the Housing Accountability Act, the Subdivision Map act and the timelines related to Accessory Dwelling Units. We cannot comment on the way that individual cities are managing their new priorities. *We encourage cities who find that their processes for permitting housing are labor intensive to adopt emergency processes that will reduce the labor involved with permitting housing.*

It should also be noted that an “automatically approved” project is still subject to the same building permitting and inspection requirements. Building and zoning code requirements must still be followed.

It is our recommendation that cities where, due to decreased staff hours, the planning staff cannot meet the statutory deadlines for approving housing using their current permitting process, the city adopt special emergency housing permitting processes, where they restrict their evaluation of proposed projects to proposals' compliance with objective standards in their codes.

The timelines from which the League of Cities request relief are very generous; none are less than a month and some are 6 months. It is already established that producing safe, sound housing is essential. During this extraordinary time, cities should focus their efforts on carrying out their essential duties, and delivering essential services to California residents -- including housing.

To the extent it is lawful for the Governor to alter mandatory requirements established in State statutes, as the League has requested, any such modifications should be designed to ensure that the timely processing of desperately needed housing should *continue* during this period, rather than grind to a halt. For example, the state could significantly ease the burden on local planning staff by determining that code-compliant housing development projects subject to mandatory approval under the Housing Accountability Act (Gov. Code § 65589.5) are not discretionary projects for CEQA purposes.

The League of Cities also requests relief for deadlines related to submitting Housing Elements. **We support this request.** Increased time to submit Housing Elements will allow cities to do the necessary robust community outreach that is currently difficult due to the Coronavirus. Housing elements involve long periods of collaboration between planning departments, elected officials, community groups, and citizen volunteers. This is hard to do when people can't meet in person, and especially difficult when stakeholders may be ill themselves or caring for someone who is ill.

In addition, delaying submission of housing elements will allow Housing and Community Development more time to develop standards, forms, definitions and other administrative rules as required by the new regulations passed in 2017-2019, and it will allow planning staff to focus on processing applications for critically needed housing developments.

Thank you for your leadership during this uncertain time.

Sincerely,

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