

Equity and Housing: Meeting and Exceeding California's Fair Housing Requirements

*Thursday, July 1, 2021
2:00 – 3:30 pm*



Thank You for Joining!

Webinar Host & Moderator

Melissa Kuehne

Senior Program Manager
Institute for Local Government



Webinar Overview

California has a commitment to fair and equal housing. That commitment was reinforced by the passage of AB 686 requiring public agencies to administer housing and community development programs in a way that furthers fair housing. This webinar will provide an overview of the fair housing laws, strategies to implement/address these requirements and the interconnection between fair housing and larger socio-economic, equity and environmental justice issues.

Today's Agenda

Welcome & Logistics

Setting the Stage

Presentations by:

- Tyrone Buckley, Assistant Deputy Director of Fair Housing, Department of Housing and Community Development
- Isaac Rosen, Associate, Best Best & Kreiger
- Lori Droste, Councilmember, City of Berkeley
- Muhammad Alameldin, Economic Equity Fellow, The Greenlining Institute

Panel Discussion

Q&A

Upcoming Webinars & Wrap Up

How to Ask a Question During the Webinar

- All webinar participants will be on MUTE during the entire call.
- Please TYPE any questions into the question box at any time during the webinar.
- The moderator will read your questions during the question period at the end of the webinar.



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We provide practical and easy-to-use resources so local agencies can effectively implement policies on the ground.

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Technical Assistance

Capacity Building

Convening

Our mission is to help local government leaders navigate complexity, increase capacity & build trust in their communities

Today's Presenters

Tyrone Buckley
Assistant Deputy Director
of Fair Housing
Department of Housing and
Community Development



Isaac Rosen
Associate
Best Best & Kreiger



Lori Droste
Councilmember
City of Berkeley



Muhammad Alamedin
Economic Equity Fellow
The Greenlining Institute



Setting the Stage

Ongoing
through
June
2023

Statewide Housing Technical Assistance Program

Statewide and
Regional TA

Planning
Commissioner
Handbook



Trainings

Elected Official
Trainings

AB 686: Affirmatively Furthering Fair Housing



California Department of Housing and Community Development

What is Affirmatively Furthering Fair Housing?

Assembly Bill 686 (2018) defines Affirmatively Furthering Fair Housing as, “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics”.

“The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.”

(Gov. Code, § 8899.50, subd. (a)(1).)



What is Affirmatively Furthering Fair Housing?

Specifically, these meaningful actions must aim to accomplish the following:

- » Address significant disparities in housing needs and in access to opportunity;
- » Replace segregated living patterns with truly integrated and balanced living patterns;
- » Transform racially and ethnically concentrated areas of poverty into areas of opportunity;
- » Foster & maintain compliance with civil rights and fair housing laws.

Assembly Bill 686 (2018)

- » **Establishes an independent state mandate for all CA public agencies to adhere to AFFH, regardless of future federal actions**
 - Mandates state, local public agencies to facilitate deliberate action to explicitly address & combat disparities resulting from past patterns of segregation to foster inclusive communities. All public agencies must administer programs and activities relating to housing and community development, broadly defined, in a manner that AFFH and take no action inconsistent with AFFH.
 - Creates new requirements for housing elements due to be revised on or after January 1st, 2021.
- » **Preserves the 2015 Obama-era HUD AFFH Rule**

New Housing Element Requirements to AFFH

Components of New HE Requirements for AFFH

1. Outreach
2. Assessment of Fair Housing (AFH)
3. Site Inventory

1. Outreach

» Existing Housing Element Outreach Requirements

- Reach ALL economic segments of the population.
- Describe meaningful, frequent, & ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element.

» New AFFH Housing Element Outreach Requirements

- Include a summary of fair housing outreach and capacity. (Gov. Code, § 8899.50, subd. (a)(2))
- Receive public input and local knowledge on Assessment of Fair Housing

1. Outreach

» Jurisdictions should consider the following:

- Geographic barriers to participation
- Transit-accessible meetings across various locations
- Meetings scheduled outside of work hours, including evenings & weekends
- Housing element drafts made available for public viewing (both in-person & electronic options)
- Translating materials, ample time for review & comment, and avoiding overly technical language
- Housing element outreach should be aligned with the SB 1000 (2016) (Environmental Justice Element) to the extent possible, given overlapping topic areas

1. Outreach

» Examples of key stakeholders to engage with include:

- Public housing authorities (PHAs)
- Community-based organizations (CBOs)
- Housing and community development providers
- Lower income community members & households that include persons in protected classes
- Fair housing agencies
- Regional & independent living centers
- Homelessness services agencies
- Churches and community service organizations that serve ethnic/linguistic minorities

2. Assessment of Fair Housing (AFH)

» Each of the 5 analysis areas below must have an assessment:



Fair Housing
Enforcement &
Outreach

Segregation
& Integration

Disparities in
Access to
Opportunity

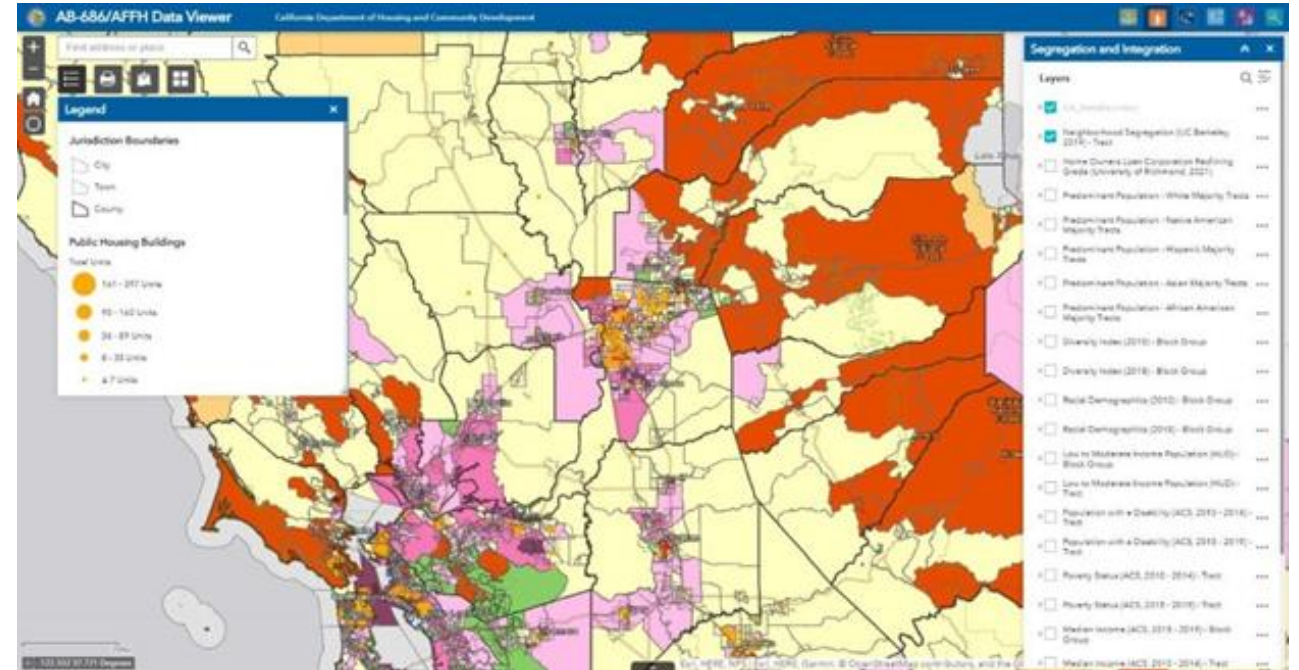
Disproportionate
Housing Needs/
Displacement

Racially /
Ethnically
Concentrated
Poverty

» Must also have a summary of fair housing issues

AFFH Data Viewer

- » Interactive Maps
- » 60+ Data layers
- » How-to Guide
- » Recommended vs. Additional Data Layers
- » Print/Export Functions
- » Feedback survey/email



3. Site Inventory

AB 686 requires a jurisdiction to identify sites throughout the community in a manner that is consistent with its duty to AFFH

- » The jurisdiction's Assessment of Fair Housing (e.g. segregation & integration, R/ECAP, etc.) should inform the identification of sites in a manner that AFFH.
- » The site identification requirement must assess whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns. Do they transform racially and ethnically concentrated areas of poverty into areas of opportunity?
- » Analysis should not be limited to the identification of sites for lower income households but should incorporate jurisdiction's projected housing development at all income levels. It should assess the extent to which it either further entrenches or ameliorates existing patterns of segregation and/or exclusion of protected class members.

Coming Soon

- » **AFFH Sample Analyses**
- » **Updates to Data Viewer**
 - New data layers
- » **Webinars**
 - Webinars on AFFH duties of public agencies & AFFH Data Viewer demo (TBA – later this summer)
 - Other webinars as requested



Thank you!

Please send questions to :

AFFHGuidance@hcd.ca.gov





Affirmatively Furthering Fair Housing: Legislative Update

Presented by

Isaac Rosen



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Overview: Recent & Relevant to AFFR

Existing Law

- AB 101 - increased enforcement authority to HCD
- AB 1486 – changes to the Surplus Land Act to bolster affordable housing
- SB 330 – streamlined approval for housing development projects
- AB 1561 – HCD may require an analysis of housing constraints of housing for persons of protected classes under the Unruh Civil Rights Act

Pending Bills

- AB 1304 – making AFFH obligations mandatory
- SB 9 – ministerial approval of 2 residential units within a single-family residential zone under certain circumstances
- SB 10 – a local agency may adopt via ordinance the right to zone any parcel up to 10 units of density in transit areas or urban in-fill



Stricter State enforcement of Local Agency's housing laws (Assembly Bill 101)

Judicial Enforcement Broadened.

- Cal AG may seek court order for a Housing Element not substantially compliant with State law (notified by HCD). First, HCD offer municipality the opportunity to discuss, and written findings regarding the violation must be provided.
- Cal AG can request that a reviewing court take action following a finding by the court that the municipality is not in substantial compliance with State law on its Housing Element. Enforcement by the court would proceed as follows:
 1. Court retains jurisdiction;
 2. Status conference within 1 year to determine substantial compliance with court order;
 3. Imposition of fines for continued failure to correct; and
 4. Appointment of court receiver possible.



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Changes to how local agencies dispose of surplus land to bolster housing efforts (AB 1486)

- For all eligible surplus land (not subject to an exemption), agency must now take formal action, and send a “notice of availability” to specific entities within whose jurisdiction the surplus land is located for purposes of developing affordable housing.
- “Good Faith negotiations” following “Notice of Availability” responses.
 - 60 days for entities to respond
 - 90 days required for good faith negotiations



The “Housing Crisis Act” (SB 330)

- **Overview:**

- Limits local agencies’ ability to regulate “housing development projects,” defined as:
 - Residential units only;
 - Mixed-use developments with at least two-thirds of the square footage designated for residential use; or
 - Transitional/supportive housing.
- SB 330 makes changes to existing housing laws (the Permit Streamlining Act and Housing Accountability Act) and codifies the new “Housing Crisis Act.”
- Most of the provisions within SB 330 remain in effect only until January 1, 2025.



The “Housing Crisis Act” (SB 330)

New Preliminary Application Process:

- **Creates a “Freeze”**
 - Existing development ordinances as those in effect when a preliminary application or application is submitted
- **Checklist**
 - Agency must have a checklist for information included in the pre application (on website)
 - Cannot request anything not on checklist
 - Must disclose why rejecting a pre application as incomplete



The “Housing Crisis Act” (SB 330)

- **Hearing limitation**

- No more than 5 hearings if project complied with GP and zoning objective standards when application deemed complete
- “Hearing” includes meeting and workshops.

- **Rezoning limitation**

- Cannot require rezoning if consistent with objective GP standards
- Can only comply with objective zoning standards to extent they facilitate density allowed by GP

- **No moratoriums**

- Only exception for imminent threats to public health and safety, if approved by HCD
- No growth control measures limiting housing



AB 1561

- HCD may require (after 2024) an analysis of constraints on providing housing for persons with protected characteristics under the Unruh Civil Rights Act (sex, race, disability, sexual orientation, etc.).
- Housing Element (HE) must also identify 1 or more zones that allow emergency shelters as a permitted use, without a CUP or discretionary permit.



PENDING LEGISLATION



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AB 1304 (Chiu and Wicks)

Clarification on AFFH

- “A public agency shall have a mandatory duty to comply with [AFFH]. This paragraph is a clarification of existing law and shall not be deemed a change in previous law.”
- The HE must include broader analysis, looking at local and regional trends, and that available RNHA sites for housing AFFH



SB 9 (Atkins, Caballero, Rubio, Winer)

- Subject to certain objective limitations, a housing application for 2-units within a SFR zone shall be approved ministerially.
- Can impose certain objective development and zoning standards [unless such standards would preclude construction]
- Ministerial approval of a parcel map for an urban lot split [subject to similar requirements]
- No affordability requirement



SB 10 (Wiener)

- Local agency may adopt an ordinance that allows up to 10 units of residential density per parcel in either a “transit-rich area” or “urban infill site”
- Legislative body needs findings, the increased density AFFR
- Could supersede local voter initiative
- Does not count by-right ADUs/JADUs



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Equitable Zoning & the Housing Element Update

By Berkeley Vice-Mayor Lori Droste

Housing Element

A Housing Element is required by state law and provides an analysis of a community's housing needs for all income levels, and strategies to respond to provide for those housing needs.



—

How many homes will cities
have to plan for to **address**
the housing affordability and
climate crisis?

Berkeley=8,934

+5,975 more than the previous Housing
Element

How do we plan for our
FUTURE?

Photo courtesy of Berkeleyside





A Community Process to...

- Prioritize housing in Priority Development Areas and transit corridors
- Reform zoning so it's equitable and neighborhood-scaled



Public Input Required for Berkeley Zoning Revisions:

- Public hearings at both the Planning Commission and Council
- Staff outreach to affected communities
- Additional legal and environmental analysis.
- Usually takes +1 year
- Explicitly mentions communities of concern, commissions, and various other stakeholders to engage.

Public Process Already Required by HCD for the Housing Element update:

- "The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element,"



Moving away from the status quo towards equity and structural barrier elimination

Equity, Affordability, & Community Benefits

- Equity in geography, housing types, and access
- Maximizing affordability and various affordable housing models
- Community benefits
 - Labor standards
 - Transportation/streets

Public Safety

Existing review:

- “Disaster Preparedness and Safety,”
- “Local Hazard Mitigation,”
- Cal Fire’s land use planning assistance,
- Fire Hazard Planning Technical Advisory,
- Required legal environmental analyses.





Our proposal's additional objective public safety standards:

- “That the development is not located in areas that would contribute to increased life loss or injury based on objective geological, seismic, or wildland-urban interface fire safety standards.”
- “That the development is not located in areas with substandard emergency vehicular access, inadequate water pressure, or that are exceptionally vulnerable to severe damage or destruction from fire and earthquake hazards based on objective geological, seismic, or wildland-urban interface fire safety standards.”

Housing Policy is Climate Policy

- Infill housing can reduce greenhouse gas pollution more effectively than any other local policy.
- Nobel prize winning climate researcher Dan Kammen, the Greenbelt Alliance, and SF Bay Area Sierra Club support removing exclusionary zoning



Design & Scale

- Thoughtful scale
- Connect with the look and feel of the neighborhood
- Adaptive reuse and contextual additions
- *Ministerial approval is not part of this proposal*





Tenant Protections

- Demolition controls
- Displacement risk analysis



Zoning Concepts

- Prioritizing growth in transit corridors and Priority Development Areas
- Equitable Neighborhood Zoning

Questions?

www.loridroste.com

Issues--Equitable Zoning Reform



Local Governments & Racial Justice

Muhammad Alameldin

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June 29, 2021

▶▶▶▶▶ INCREASED EFFICIENCY IN DECISION-MAKING AND SOLUTIONS IMPLEMENTATION ▶▶▶▶▶ EQUITY

STANCE TOWARDS COMMUNITY	0	1	2	3	4	5
	IGNORE	INFORM	CONSULT	INVOLVE	COLLABORATE	DEFER TO
IMPACT	Marginalization	Preparation or Placation	Limited Voice or Tokenization	Voice	Delegated Power	Community Ownership
COMMUNITY ENGAGEMENT GOALS	Deny access to decision-making processes	Provide the community with relevant information	Gather input from the community	Ensure community needs and assets are integrated into process & inform planning	Ensure community capacity to play a leadership role in decision-making and the implementation of decisions.	Foster democratic participation and equity through community-driven decision-making; Bridge divide between community & governance
MESSAGE TO COMMUNITY	<i>Your voice, needs & interests do not matter</i>	<i>We will keep you informed</i>	<i>We care what you think</i>	<i>You are making us think, (and therefore act) differently about the issue</i>	<i>Your leadership and expertise are critical to how we address the issue</i>	<i>It's time to unlock collective power and capacity for transformative solutions</i>
ACTIVITIES	Closed door meeting Misinformation Systematic Disenfranchisement Voter suppression	Fact sheets Open Houses Presentations Billboards Videos	Public Comment Focus Groups Community Forums Surveys	Community organizing & advocacy Interactive workshops Polling Community forums Open Planning Forums with Citizen Polling	MOU's with Community-based organizations Citizen advisory committees Collaborative Data Analysis Co-Design and Co-Implementation of Solutions Collaborative Decision-Making	Community-driven planning and governance Consensus building Participatory action research Participatory budgeting Cooperative models
RESOURCE ALLOCATION RATIOS	100% Systems Admin	70-90% Systems Admin 10-30% Promotions and Publicity	60-80% Systems Admin 20-40% Consultation Activities	50-60% Systems Admin 40-50% Community Involvement	20-50% Systems Admin 50-70% Community Partners	80-100% Community partners and community-driven processes ideally generate new value and resources that can be invested in solutions

Panel Discussion





Upcoming Webinars



TACKLING CALIFORNIA'S HOUSING CRISIS

A FREE WEBINAR SERIES FOR LOCAL GOV'T STAFF & ELECTED OFFICIALS



ABOUT THE SERIES

California's housing crisis is growing. While local governments do not build housing units, local officials play an integral role in land use and housing decisions that set the stage for housing development.

This new series from ILG will help city and county leaders better navigate complex housing issues. Experts will tackle timely topics like land use and housing, legal regulations and parameters, and community engagement.

**REGISTRATION
IS FREE!**

This series is hosted by the Institute for Local Government with funding from the California Department of Housing and Community Development

[WWW.CA-ILG.ORG](http://www.ca-ilg.org)

Topics:

- Strategies to Engage Your Community on Housing Issues
- Climate-Resilient Land Use and Housing Policies
- Housing Strategies to Help Address Homelessness

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Thank You!



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