



**California Rural
Legal Assistance
Foundation**



**HOUSING
CALIFORNIA**



**WESTERN
CENTER
ON LAW & POVERTY**

March 20, 2018

Honorable Scott Wiener
State Capitol Room 4066
Sacramento, CA 95814

RE: SB 827 (Wiener)—OPPOSE UNLESS AMENDED

Dear Senator Wiener:

On behalf of the low-income families, people experiencing homelessness, and affordable housing developers that our organizations serve, we must regretfully oppose SB 827 unless it is amended to address the proposal's impact on gentrification and exclusion in areas of the state where low-income communities and communities of color are already experiencing extraordinary displacement.

Our organizations are dedicated to creating healthy, stable, and sustainable affordable housing opportunities for families and individuals struggling to make ends meet in California. We work to increase investment in affordable housing, protect the rights of renters currently fighting to keep their homes, and ensure that land use policy creates opportunities for equitable, inclusive communities. Critically, we are deeply committed to racial justice and undoing the effects of housing policies that segregated, razed, and disinvested from communities of color, often in the name of urban renewal. Because of our collective decades of experience in this work, we know that all housing policies must contain concrete provisions that ensure that every Californian, not just a privileged set, can benefit from development and investment in a manner that is equitable and sustainable for future generations.

We support the goal of increasing housing supply in California and removing local barriers to its production, especially at the low- and very low-income levels where the existing shortage of units is acute and where the market alone cannot address that shortage. We also support the goal of increasing residential densities, especially around high-quality transit. We agree that local land use decision-making often has been a significant barrier to the development of housing, especially housing affordable to lower-income households, as well as a tool for segregation and exclusion. However, a policy aimed at addressing those issues that fails to preserve existing sources of affordable housing, protect low-income communities, and ensure the development of new affordable housing risks perpetuating, even codifying, current displacement trends, exacerbates the affordable housing crisis, and runs counter to our state's ambitious climate goals.

SB 827 Does Not Ensure Affordability or Protect Against Displacement

Increasing the allowable density on land currently zoned for lower-density housing will dramatically increase the value of that land. By increasing land values, SB 827 will fuel the displacement of low-income communities and communities of color by investors and speculators who seek to build

higher-income developments. Even with the March 1st amendments, nothing in the bill prevents or mitigates both the direct and indirect displacement that will occur as a result of the proposal.

Good policy demands that as communities grow and gain access to resources and benefits, state and local governments intentionally plan for and ensure the continued presence of lower-income households. A primary strategy for doing this is requiring that a portion of any new housing be affordable to lower-income households. SB 827 has no such provision. In addition, the bill's effect on land values will exacerbate the existing challenges affordable housing developers have in competing for expensive parcels in transit-rich areas, making it that much more difficult to develop new long-term rent-restricted affordable housing near transit.

SB 827 also fails to adequately protect existing tenants who live near transit by allowing for the demolition of existing housing to make way for new market-rate projects. The bill instead offers a promise of relocation assistance for displaced residents and a right to return, but the language is vague and would be extremely difficult to enforce. Past experience with redevelopment programs has shown that specific, enforceable rules are required to avoid destroying entire communities. For example, the bill does nothing to limit a new owner's ability to rescreen and deny prior tenants, nor does it provide any guarantee that a displaced tenant's rent in the new development will remain affordable over time. The bill also fails to include a provision requiring no net loss of affordable units, which is crucial when demolition is not strictly prohibited. Absent such a provision, a development using a transit-rich housing bonus could eliminate existing affordable housing, whether rent controlled, deed-restricted, or simply occupied by lower-income households, without having to provide a single unit of long-term affordable housing in return.

Finally, we fear that this bill could spur the mass displacement of renters in some of the communities across the state that have large swaths of single-family homes that were purchased by Wall Street investment firms in the wake of the foreclosure crisis. Many of these homes are occupied by lower- and middle-income households. SB 827 will create just the windfall moment for which investors have been waiting to cash out, leaving hundreds, and potentially thousands, of families out in the cold.

SB 827 Is Ineffective Climate Policy

Failing to address affordability and displacement will also have a negative impact on the achievement of California's climate goals. Transportation-related greenhouse gases (GHGs) account for a significant portion of GHGs in California. To address this as part of the state's overall climate strategy, the Legislature passed SB 375 (Steinberg, Chapter 728, Statutes of 2008), aimed at reducing the amount that people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning. An analysis conducted by the Center for Neighborhood Technology demonstrated that when lower-income households have the opportunity to move closer to transit, there is a significantly higher rate of mode-shift than when higher-income people move closer to transit. Additionally, when existing lower-income residents are displaced from areas near transit, they are often forced into areas far from job centers, resulting in increased commute times by car and thus increased GHGs. Unless SB 827 protects existing sources of affordable housing and requires the production of new affordable housing in transit rich areas, it will represent a failure to capitalize on a known strategy for reducing GHGs in a state that has long been a national and world leader on climate policy.

SB 827 Must Protect Locally Adopted Solutions

SB 827 also fails to acknowledge the hard work that has already happened in many localities across the state to increase densities around transit in a way that is sensitive to the local context, ensures adequate levels of affordability, and provides other community benefits. Good examples of this are Los Angeles' voter-approved Measure JJJ and the Transit-Oriented Communities Program. Another good example is the recently adopted South and Southeast Los Angeles Community Plan, a locally celebrated example of equitable community planning incorporating significant density increases along transit with meaningful affordability and no net loss provisions. The Community Plan density program would be entirely undone by the current version of SB 827.

In addition, SB 827 includes unnecessarily complicated language concerning locally adopted inclusionary policies that may limit their application. The bill should leave the adoption and design of those policies to local decision-makers who know best how to craft a policy to meet the community's needs.

An Alternative: Work Within Existing Density Bonus Law to Accomplish SB 827's Goals

We believe the bill's current approach to increasing density around transit using one statewide standard is flawed and presents a significant barrier to addressing the problems we have outlined above. However, as we have stated, we share many of your same goals and therefore propose that a more equitable, inclusive, and effective way to achieve them would be through amendments to Government Code Section 65915. For decades, Density Bonus Law has provided a framework for state-mandated incentives for increased housing production using a system that ensures equitable development inclusive of people of different incomes. Rather than overriding or eliminating local densities entirely, the law strikes the appropriate balance by increasing the density that has been established at the local level in exchange for the inclusion of affordable units. The law recognizes that upzoning creates value and requires that some of that value be utilized to provide long-term affordability. Instead of creating a new policy that is both inconsistent with and undermines current Density Bonus Law, SB 827 could instead amend GC Section 65915 to provide for greater density increases in exchange for higher percentages of affordable units on lower-density parcels around transit in localities that have not already adopted a plan or program to accomplish a similar goal.

Another Solution: Amend SB 827 to Address Affordability and Displacement

As an alternative to the approach outlined above, if the bill remains a single statewide approach without regard to existing local conditions, we must remain opposed unless the bill is amended to do the following:

1. Require that at least 20% of all new housing units produced with a transit-rich housing bonus be affordable to lower-income households, of which 10% must be affordable to very low-income households. This is an appropriate trade-off for the state conveying increased value to landowners through increased density and ensures that we are developing inclusive communities and increasing transit ridership. It is also crucial to avoiding the displacement that would otherwise result from the gentrifying effects of increased land value.

2. Prohibit a developer from utilizing a transit-rich housing bonus for a development that would require the demolition of rental housing or that is proposed on a site that was occupied by rental housing within the past 10 years. The prohibition should also extend to condominium conversions that do not involve demolition but that do displace renters. SB 35 contains the same prohibition for developers seeking to utilize the streamlined review process offered pursuant to the legislation.
3. Protect local inclusionary measures without imposing additional state-mandated burdens on the adoption or application of these policies.
4. Exempt areas that are already covered by locally adopted programs or plans that provide for higher-density development around transit and that include required affordability.

People of color most intimately, but really all of us, live in the wake of a housing history rife with policies that purported to open the American Dream to more while actually, and often purposefully, excluding many. We have seen deep explorations of those policies in recent best-selling books such as *The Color of Law* and *Evicted*. Perhaps more than ever before, the far-reaching ramifications of our exclusive and often segregationist housing policies have been thoughtfully exposed. Unless SB 827 is amended to include policies that protect and promote the inclusion of lower-income Californians, history will continue to repeat itself. This moment would be a startling one in which to lurch backwards.

Sincerely,



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cc: Alison Dinmore, Senate Transportation & Housing Committee
Doug Yoakam, Senate Republican Caucus