

HOW THE GOVERNMENT CAN SOLVE L.A.'S HOUSING CRISIS

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Transit-oriented development is the city's top method for combatting the housing crisis, but experts say the city must reduce all regulatory barriers on housing development.

PRINT REPRINTS



The most recent Affordability Housing Policy Brief paper from **UCLA Ziman Center for Real Estate** explores the government's recent approach to solving the housing crisis. Transit-oriented development, density and land-use controls have been the government's focus to solving the problem—but are they working? We sat down with **Julia E. Stein**, senior counsel at Cox, Castle & Nicholson LLP, who co-authored the report with **David P. Waite**, a partner at **Cox, Castle & Nicholson LLP**, to talk about the strategy for solving the housing crisis and the approach they believe that the government should take.

GlobeSt.com: Do you think that current transit oriented development program is the best approach to solve the housing crisis?

Stein: It's only one approach. Addressing the housing crisis must necessarily include reducing regulatory barriers to develop all types of housing, including both market rate and affordable housing. Incenting development near transit is one of several pathways being explored to address California's housing crisis; it has the potential benefit of killing two birds with one stone by working to reduce vehicle miles traveled (and, ostensibly, greenhouse gas emissions from vehicle exhaust) by siting denser development closer to major transit stops. Theoretically, this approach would place the densest development in neighborhoods with strong transit networks, adding both market rate and affordable housing while at the same time providing new residents with readily-accessible and lower emission transportation options. In practice, however, limitations on TOD programs and questions about the propriety of including certain types of transit within their ambit may impact their effectiveness. Ultimately, TOD is just one of several potential approaches needed to address the need for more housing.

GlobeSt.com: Have the government's efforts to incentivize TOD projects been effective?

Stein: It's too early to draw any conclusions. There have been a number of legislative efforts on both the State and local level to incentivize TOD. The outcome of many of those efforts remains to be seen. For example, the City of Los Angeles' Transit-Oriented Communities Program, which provides tiered density, parking, and other development incentives based upon a project's proximity to transit and its provision of affordable housing, has begun accepting applications this year. While approximately 40 projects have applied for inclusion in the program, it is as yet unknown how many of those projects will ultimately receive its benefits, and to what extent.

Historically, TOD legislation has come with certain caveats that limit the number of projects able to take advantage of incentives. By way of illustration, SB 375, a 2008 law which provides CEQA streamlining benefits to "sustainable communities projects" located close to transit, requires projects to meet a detailed list of qualifying specifications in order to be eligible for the law's benefits, including a cap at 200 units and a requirement that the project not be sited on a DTSC-listed property. The end result has been that very few projects have been able to take advantage of SB 375's CEQA exemption for "sustainable communities projects." Newer programs like the Transit-Oriented Communities Program come with their own limitations—for example, the Transit-Oriented Communities Program does not apply to projects needing a zone

change, which renders industrially zoned properties close to transit ineligible—which may substantially limit the widespread use of the Program.

GlobeSt.com: In addition to TOD projects, what are other government actions that would help solve the affordability crisis?

Stein: Another approach that is currently garnering support, including from Los Angeles' Mayor Eric Garcetti, is a potential repeal of Costa-Hawkins, a 1995 law that prevented cities from capping rent increases for buildings built after February 1995. In Los Angeles, that law had the effect of freezing the City's Rent Stabilization Ordinance, meaning only buildings built prior to October 1978 are subject to rent control. A repeal of Costa-Hawkins would accordingly allow local jurisdictions to impose rent control conditions on newer buildings. Proponents of the repeal have gathered enough signatures to place a measure on the November ballot; the outcome remains to be seen. Los Angeles Mayor Eric Garcetti has expressed his view that Costa-Hawkins took authority to control rent out of local hands, to which it should now return. Many housing advocates disagree, citing mounting evidence that rent control will only further constrain the state's supply of housing at all levels.

GlobeSt.com: How can the government better streamline approvals processes and site plan review to expedite the development process while still keeping in place the protections that those processes provide?

Stein: CEQA reform has been debated for many years and meaningful legislative reform remains elusive. Subjecting projects to site plan review requires a discretionary approval that triggers environmental review under CEQA. While site plan review and other design review processes are important parts of the project approvals process. There are two options that could allow for further streamlining of project approvals: (1) discretionary design plan review processes could be eliminated if the project conforms with the existing site zoning (including if the project complies with the requirements for ministerial density bonuses under programs like the Transit-Oriented Communities Program) and would otherwise be a ministerial, by-right project; or (2) design plan review processes could be made to be ministerial by creating an objective set of standards and offering the reviewing agency no discretion in approving or denying the project based on its compliance with those standards. An approach similar to the latter is espoused in SB 35 (a successful legislative effort by Senator Wiener), which streamlines the design plan review process for projects that meet the law's affordability and other requirements. Because meaningful CEQA reform remains unlikely, the legislature need to

substantially expand on those types of housing projects that can be approved ministerially, without the need for CEQA review.



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