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# California State Senate

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JOINT RULES COMMITTEE

March 25, 2019



The Honorable Gordon Mar  
Member, Board of Supervisors  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

## Re: Your Proposed Resolution Opposing Senate Bill 50

Dear Supervisor Mar:

I hope this letter finds you well. I write regarding a resolution you introduced on March 18 to oppose a bill I am authoring, Senate Bill 50. A recent poll of San Francisco voters showed 74% support for SB 50, with the highest level of support coming from your district. SB 50 will expand all forms of housing in San Francisco, including affordable housing. It will legalize affordable housing in your district. (Affordable housing is currently illegal in a large majority of your district due to widespread single-family home zoning.) It will reduce sprawl and carbon emissions. And, it will ensure that *\*all\** cities, including wealthy cities, help solve our housing crisis.

If the Board of Supervisors were to adopt your resolution and oppose SB 50, San Francisco would be aligning itself with some of the wealthiest and most housing-resistant communities in California. For example, some of the most vocal critics of the bill are the anti-growth Mayors of Palo Alto, Beverly Hills, and Los Altos, as well as anti-growth advocates in Cupertino and Marin County.

In addition, while I respect anyone's right to have whatever opinion they want about my bills, I do ask that people not mischaracterize those bills. Unfortunately, your resolution contains significant factual inaccuracies about SB 50, as described later in this letter.

### Why SB 50 and What the Bill Does

The purpose of SB 50 is to address one of the root causes of California's housing crisis: hyper-low-density zoning near jobs and transit, in other words, cities banning apartment buildings and affordable housing near jobs and transit. This restrictive and exclusionary zoning was originally created one hundred years ago to keep people of color and low income people out of white neighborhoods, and it is currently exacerbating racial and income segregation.

Bans on apartment buildings and affordable housing in huge swaths of California — i.e., zoning that bans all housing other than single-family homes — have fueled our state's housing affordability crisis, helped generate California's 3.5 million home deficit (a deficit equal to the combined deficits of the other 49

states), made a large part of California and San Francisco off-limits to affordable housing, and directly led to sprawl development since it is illegal to build enough housing near jobs and transit.

Hyper-low-density zoning in places like San Francisco also worsens climate change. It leads to sprawl development that covers up farmland and open space, pushes people into multi-hour commutes, clogs our freeways, and increases carbon emissions. By advocating against a bill like SB 50, your resolution is advocating for sprawl, for increased carbon emissions, and against equitable placement of affordable housing (for example, in your own district, which is extremely low density and thus has very little affordable housing). Your resolution advocates for the housing status quo, which has resulted in so many working class families being pushed out of San Francisco.

SB 50 gets to the heart of this zoning problem by allowing increased density near quality public transportation and in job centers. SB 50 will allow more people to live near transit and close to where they work. It will help alleviate California's housing crisis by creating more housing and legalizing affordable housing where it is currently illegal.

Over the past year and a half, we have engaged in intensive stakeholder outreach with cities (including San Francisco), tenant advocates, environmentalists, neighborhoods groups, and others, in an effort to fine-tune the bill and respond to constructive feedback. For example, we changed the bill so that, overwhelmingly, it respects local height limits and setbacks. And where the bill does require 45- and 55-foot heights (near rail and ferry stops), it will barely affect San Francisco building heights, since in the overwhelming majority of our residential neighborhoods, the height limit is already 40 feet. In other words, in San Francisco, SB 50 will result in either no height increase or a one-story increase.

SB 50 also defers to local inclusionary housing requirements, unless those requirements fall below a minimum standard, in which case the bill imposes a baseline inclusionary percentage. The bill thus extends inclusionary housing requirements to many cities that do not currently have them. SB 50 respects local demolition restrictions, with the exception that it creates a statewide blanket demolition ban on buildings where a tenant has lived in the past 7 years or where an Ellis Act eviction has occurred in the past 15 years. These are the strongest such tenant protections ever created under California law. It also defers to local design standards and local setback rules. Of significance, SB 50 does not change the local approval process. If a conditional use, CEQA review, discretionary review, or other process is currently required under San Francisco law, SB 50 will not change that process.

Because of SB 50's benefits for housing affordability and the environment, a broad coalition of labor, environmental, affordable housing, senior, and student organizations are supporting the bill, including the California Building and Construction Trades Council, the Nonprofit Housing Association of Northern California, the California League of Conservation Voters, Habitat for Humanity, AARP, the University of California Student Association, and various local elected officials, including Mayors London Breed, Michael Tubbs, Libby Schaaf, Sam Liccardo, and Darrell Steinberg.

### **Benefits of SB 50 for San Francisco**

What SB \*will\* change in San Francisco is (1) ending the inequitable development patterns we currently see in our city, (2) legalizing affordable housing throughout the city, not just in a few neighborhoods, and (3) dramatically increasing the number of below market rate homes produced.

Because approximately 70% of San Francisco is zoned single-family or two-unit — in other words, all forms of housing other than single family and two units are banned — it is illegal to build even a small

apartment building or affordable housing project in the large majority of San Francisco, including in the lion's share of your own district. Dense housing is thus concentrated in just a few areas — Districts 3, 6, 9, and 10 — with only a few exceptions. Your opposition to SB 50 perpetuates this geographic inequity in San Francisco.

San Francisco will see a significant increase in affordable homes under SB 50. With more multi-unit zoning, parcels currently ineligible for 100% affordable projects (e.g., single-family-zoned parcels) will now be candidates for such projects, including in your district. In addition, legalizing more multi-unit buildings, as SB 50 does, will mean that many more projects will trigger San Francisco's inclusionary housing requirements and dramatically increase the number of below-market-rate units produced. Indeed, as noted by the San Francisco Planning Department in its analysis of SB 50: "SB 50 is likely to result in significantly greater housing production across all density-controlled districts, and thus would produce \*more\* affordable housing through the on-site inclusionary requirement."

### **Inaccuracies in Your Resolution**

Your resolution contains a number of highly inaccurate statements about SB 50. If you are committed to bringing this resolution to a vote — despite all the benefits SB 50 can bring to San Francisco and California — I request that you at least correct these inaccuracies:

*1. Your resolution falsely states that SB 50 will "undermine community participation in planning" and "result in significantly less public review."*

As noted above, SB 50 does not in any way change the approval process for individual projects. Nor does it change the city's ability to adopt anti-displacement protections, demolition controls, inclusionary housing requirements, design standards, and so forth. The community is in no way removed from the planning process.

*2. Your resolution falsely states that SB 50 will undermine the "well-being of the environment."*

SB 50 has been described as an incredibly powerful tool against climate change, as it will allow more people to live near jobs and transit and avoid being "super-commuters." That is why various environmental groups are supporting it. What undermines the environment and our fight against climate change is low-density zoning in job/transit centers like San Francisco — low density zoning for which you appear to be advocating.

*3. Your resolution falsely states that SB 50 will "prevent the public from recapturing an equitable portion of the economic benefits conferred to private interests."*

As noted above, SB 50 does not override local inclusionary housing requirements. Nor does it override local impact fees, such as transportation, park, sewer, and other development fees. San Francisco will continue to have full latitude to recapture value from development. Indeed, San Francisco will collect significantly more impact fees, since these fees are usually based on the size of the building and SB 50 will allow larger buildings in terms of density.

*4. Your resolution falsely states that SB 50 restricts the city's ability to adopt policies to ensure "equitable and affordable development" in sensitive communities.*

SB 50 contains a 5-year delayed implementation for “sensitive communities,” which are defined as communities with significant low income populations and risk of displacement. We are working with tenant advocates to continue to flesh out the details of this provision. This 5-year delay will give communities the opportunity to engage in local anti-displacement planning.

You point to several San Francisco neighborhoods that are not entirely classified as sensitive communities, for example, the Mission, Chinatown, and SOMA. Please note that Chinatown, SOMA, the Tenderloin, and much of the Mission will be minimally impacted, if at all, by SB 50, because they are already zoned as densely or more densely than SB 50 requires. Indeed, this is exactly why SB 50 will increase equity. Historically, low income communities have disproportionately been zoned for density, while wealthier communities have not. Why should density be concentrated in low income communities? SB 50 seeks to break this inequitable status quo, which is why the bill is being aggressively attacked by the Mayors of Palo Alto, Beverly Hills, and Los Altos, and by anti-growth advocates in Cupertino and Marin County. Your resolution, by contrast, perpetuates that inequitable status quo.

*5. Your resolution falsely states that SB 50 does not allow San Francisco to ensure “a meaningful net increase in affordable housing.”*

As described above, the exact opposite is true: As confirmed by the San Francisco Planning Department, SB 50 will result in a significant increase in affordable housing, because far more parcels will be zoned for density and thus candidates for affordable housing (only densely zoned parcels can have affordable housing) and because more multi-unit projects mean more below market rate units under San Francisco’s inclusionary housing ordinance. Currently, affordable housing is illegal in 70% of San Francisco due to low density zoning. SB 50 changes that status quo, whereas your resolution perpetuates the status quo.

*6. Your resolution falsely states that SB 50 does not protect against demolitions and does not allow San Francisco to protect against demolitions.*

SB 50 maintains local demolition protections and increases those protections for buildings in which tenants have resided in the past 7 years or where an Ellis Act eviction has occurred in the past 15 years. Your resolution is simply wrong about this subject.

I hope you will reconsider your effort to oppose SB 50 or, at a minimum, correct the significant factual inaccuracies in your resolution. As always, I am available to discuss this or any other issue.

Sincerely,



**Scott Wiener**  
Senator

cc: All Members of the Board of Supervisors  
Clerk, Board of Supervisors  
Mayor London Breed  
San Francisco Planning Department