



To: RCRC Board of Directors
From: Tracy Rhine, Legislative Advocate
Paul A. Smith, Vice President Governmental Affairs
Date: April 16, 2019
Re: Senate Constitutional Amendment 1 (Allen) – Public Housing Projects
- **ACTION**

Summary

This memo provides an analysis of Senate Constitutional Amendment 1, authored by Senator Ben Allen (D-Santa Monica), which would repeal Article 34 of the California State Constitution. If passed by the Legislature, this measure would be placed on the next statewide ballot for voter approval. RCRC staff is recommending that the Board of Directors adopt a “Support” position.

Background

In response to the Federal Housing Act of 1949, part of President Harry Truman’s “Fair Deal” intended to create more housing for low-income families, voters added Article 34 to the California Constitution in 1950. Article 34 prohibits “low-rent housing projects” from being developed, constructed, or acquired by any local jurisdiction unless it has been approved by a majority of the voters in that local jurisdiction. Fundamentally, Article 34, backed originally by the California Association of Realtors (then called the California Real Estate Association), was an initiative intended to stop the construction of public housing projects in certain communities by requiring local voter approval.

There have been three attempts to affect Article 34, either by weakening its provisions, or repealing the Amendment in its entirety. In 1974, a full repeal initiative failed, followed six years later by a legislative proposition to allow local residents to appeal the decision to build a public housing project instead of requiring a vote to allow the public housing construction. This measure failed to garner voter approval, and the Legislature tried yet again in 1993 with Proposition 168 to rewrite Article 34 in a way that would allow most public housing projects to move forward. Proposition 168 failed with 40 percent voter approval.

Issue

Construction of affordable housing has changed in California over the last fifty years. Public housing projects have mostly been replaced with a myriad of state and federal incentive and regulatory programs intended to encourage construction of affordable housing developments through local-private partnerships.

Over the last three years, the Legislature and former Governor Jerry Brown increased funding to existing housing programs, and established several new programs aimed at growing housing stock, including low-income and permanent supportive housing for individuals experiencing homelessness. With the continuing housing crisis, compounded by numerous wildfires that have exacerbated the affordable unit shortage around the state, Governor Gavin Newsom has also committed to addressing affordable housing production and homelessness in his proposed State Budget, which was released January 10, 2019.

Funding for affordable housing can come in many forms, including grants or loans to local jurisdictions or developers for specific projects. For example, funding from the No Place Like Home Program can be allocated directly to a city or county for capital costs of a project. Because this funding comes from state government for construction of “low-rent” housing, the projects are subject to the Article 34 requirement for voter approval.

On the first day of the 2019 Legislative Session, Senator Allen introduced SCA 1 to repeal Article 34. Though the courts have decided that local governments can meet the Article 34 vote requirement through holding an election to authorize a total number of housing units to be built in future years rather than holding an elections for each individual project, the Article 34 requirement continues to be a potential barrier to optimizing state funding sources.

SCA 1 currently awaits consideration in the Senate Housing Committee.

Staff Recommendation

Staff recommends a “Support” position for SCA 1. Many RCRC member counties continue to utilize state loan and grant housing programs. Certification of Article 34 compliance is required to apply for funds through these programs and has caused concern for some RCRC member applicants.

Attachment

- Copy of Senate Constitutional Amendment 1 (Allen)