

Peace and Freedom Party of California

Legislative Committee

Hon. Steven Bradford
State Capitol, Room 2062
Sacramento, CA 95814-4900

Subject: SB 277 Palmer Decision – Support

Dear Senator Bradford,

I am writing to you on behalf of the Peace and Freedom Party of California to support SB 277. In addition to supporting the construction of new affordable housing, the Peace and Freedom Party supports effective rent control as a means of keeping some housing in California affordable, and thus advocates the repeal of the Costa-Hawkins Act. While SB 277 doesn't do that, it does reverse a mistaken court ruling that purported to extend the reach of Costa-Hawkins to prevent local inclusionary zoning measures from requiring developers to provide affordable rental units.

For decades California has had a housing affordability problem, with millions of households paying more than they could afford for often substandard housing. In recent years this problem has become a crisis. Especially in the San Francisco Bay Area, gentrification has forced many tenants to leave their homes and their home towns. One measure in fairly wide use to address this problem was inclusionary zoning, under which developers of market-rate housing were required to include in their projects a specified percentage of permanently or long-term affordable units. The Palmer decision ruled that the Costa-Hawkins Act's bans on vacancy controls and exemptions of new construction preempted such measures when applied to rental housing.

Whatever the hopes of its landlord and developer sponsors may have been, the intent of the legislature in passing the Costa-Hawkins was only to restrict generally applicable residential rent control ordinances, not to also restrict the ability of local governments to regulate land use in their jurisdictions. Thus the Palmer decision was wrongly decided. If the courts won't reverse it, it is the responsibility of the legislature to clarify that it goes against the intent of the law, as your SB 277 and Assemblymember Bloom's AB 1505 do.

However, the actual provisions and intent of Costa-Hawkins are still bad policy. The legislature should reverse them by ending the blanket exemptions from rent control for new construction and for single-family homes (including all condominium units) and the ban on vacancy control in rent control ordinances.

We do have some concerns, however, about the specific language of SB 277 and AB 1505. While the two bills specifically authorize inclusionary zoning provisions such as those that have been adopted by the overwhelming majority of California jurisdictions that have them, being so specific could be construed to occupy the field and thus prevent cities or counties from enforcing different inclusionary zoning requirements. For example, when existing housing is demolished to build new housing, a city may want to require that the replacement housing include units permanently affordable to a mix of tenants with the same income characteristics as those in the demolished housing. For another example, a county may wish to require that a minimum percentage of the square footage of a development be used for affordable housing. Both of these examples would constitute inclusionary zoning, but wouldn't just be setting fixed percentages of units in new development as affordable to tenants in four particular income categories. Is the intent language stating that the Legislature does not intend "to enlarge, diminish, or modify in any way the existing authority of local jurisdictions to establish, as a condition of development, inclusionary housing requirements, beyond reaffirming their applicability to rental units" sufficient to clearly allow such requirements for permanently affordable housing?

Despite these concerns, the Peace and Freedom Party of California supports SB 277 and AB 1505. We will do what we can to help pass your bill, and we hope that we can work with you and other legislators to go on to repeal or substantially modify the Costa-Hawkins Act (as would Assemblymember Bloom's AB 1506, which hasn't yet been heard in committee). To discuss our position on SB 277 further, please contact me at 916-320-9186 (mobile) or ctwebervoters@att.net, or our State Chair, Kevin Akin, at 951-675-2813 (mobile) or kevinakin1950@hotmail.com.

Sincerely,

C. T. Weber
Peace and Freedom Party of California
Legislative Committee Chairperson

cc: Assembly Committee on Housing and Community Development
Hon. David Chiu, Chair
Hon. Marc Steinorth, Vice Chair
Hon. Raul Bocanegra
Hon. Ed Chau
Hon. Steven S. Choi, PhD.
Hon. Ash Kalra
Hon. Monique Limón
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