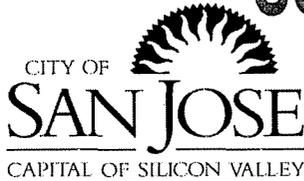


SUPPLEMENTAL

COUNCIL AGENDA: 05-22-07

ITEM: 3.10



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: May 18, 2007

Approved

Kay Wimer

Date

5/18/07

COUNCIL DISTRICT: Citywide

SUBJECT: AB 239 (DESAULNIER) – COUNTIES’ RIGHT TO LEVY INCREASED RECORDING FEES TO FUND AFFORDABLE HOUSING DEVELOPMENT SUPPLEMENTAL REPORT

REASON FOR SUPPLEMENTAL REPORT

At the May 16, 2007 Rules and Open Government Committee, the Committee members recommended a “watch” position for AB 239 (DeSaulnier). This supplemental report reflects this feedback.

RECOMMENDATION

It is recommended that the City Council approve the Rules and Open Government Committee’s recommendation to “WATCH” AB 239 (DeSaulnier). This will allow the City administration to continue to monitor changes to the bill and provide feedback to the City Council regarding its progress.

BACKGROUND

Before taking a position on AB 239 (DeSaulnier), which was discussed at the May 9, 2007 Rules and Open Government Committee, members requested that staff further investigate specific aspects of the bill and return to the May 16, 2007 meeting with a report. After considering the staff’s responses and those of the City Attorney’s Office, the Rules and Open Government Committee voted to recommend a “watch” position for AB 239. The Housing Department will report back to the Rules Committee on the progress of the bill.


LESLYE KRUTKO
Director of Housing



Memorandum

TO: RULES COMMITTEE

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: May 2, 2007

Approved

Date

5/3/07

Council District: All

SNI: All

SUBJECT: AB 239 (DESAULNIER) – COUNTIES' RIGHT TO LEVY INCREASED RECORDING FEES TO FUND AFFORDABLE HOUSING DEVELOPMENT

RECOMMENDATION

The Housing Department urges the Rules Committee to recommend to the Mayor and City Council support for AB 239 (DeSaulnier). Staff also requests that the item receive a one-week turn around for Mayor and City Council review.

A fact sheet and analysis of the bill is attached.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

LESLEYE KRUTKO
Director of Housing

**AB 239 (DeSaulnier) – COUNTIES’ RIGHT TO LEVY INCREASED RECORDING
FEES TO FUND AFFORDABLE HOUSING DEVELOPMENT**

What’s the issue the bill is trying to resolve?

This bill would allow the Contra Costa County Board of Supervisors and the San Mateo County Board of Supervisors to charge an additional flat fee up to \$25, for each recorded real estate document longer than one page. The additional fees would be exclusively used for financing the construction, rehabilitation, or purchase of infill housing for extremely low-, very-low-, low-, and moderate-income households.

How would the passage of this bill affect San José?

The need for affordable housing in San José exceeds the current resources available. As a result, the Administration is exploring several different options of sustainable funding sources. Other fiscal realities, like the eventual expiration of tax increment financing in redevelopment project areas, will further increase the need for additional local funding sources for affordable housing. If AB 239 passes, Santa Clara County and the City of San José could observe and analyze how extra recording fees for affordable housing may or may not work locally.

Staff’s Proposed Position:

Staff recommends that the City support AB 239 (DeSaulnier) which is in keeping with the City’s 2007 Legislative Priority that states that the City should seek “permanent sources of funding for affordable housing.” In an environment of limited fiscal resources, alternate sources of funding like the one that would result from the passage of AB 239, are becoming increasingly necessary. While this legislation does not directly impact San José, it will create a pilot effort that the City can learn from and evaluate.

Who are the bill’s supporters and opponents?

AB 239 is supported by Contra Costa County, the California Alliance for Jobs, the California Alliance for Retired Americans, the California Labor Federation, the City/County Association of Governments of San Mateo County, the City of Pinole, the Contra Costa Building and Construction Trades Council, the Contra Costa Council, the County of San Mateo, EAH Housing, Eden Housing, Gray Panthers, Housing Rights, Inc., Human Investment Project Housing, the Interfaith Council of Contra Costa County, the Non-Profit Housing Association of Northern California, Peninsula Habitat for Humanity, Peninsula Interfaith Action, Shelter Inc., Shelter Network, Starr King School of the Ministry, Susan A. Bonilla - Contra Costa County District IV Supervisor, the Central Labor Council of Contra Costa County, AFL-CIO, the United Brotherhood Carpenters and Joiners of America- Local Union No. 152. AB 239 is opposed by the California Association of Realtors and the Stop Hidden Taxes Coalition.

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What is the current status of the measure?

AB 239 passed out of the Assembly Local Government Committee on March 28, 2007 by a vote of 5-2. The bill was referred to the Assembly Housing and Community Development Committee, and is scheduled to be heard by that committee on May 9, 2007.



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: May 14, 2007

Approved

Date

5/14/07

COUNCIL DISTRICT: Citywide

SUBJECT: **AB 239 (DESAULNIER) – COUNTIES' RIGHT TO LEVY INCREASED RECORDING FEES TO FUND AFFORDABLE HOUSING DEVELOPMENT - SUPPLEMENTAL REPORT**

REASON FOR SUPPLEMENTAL REPORT

Before taking a position on AB 239 (DeSaulnier), which was discussed at the May 9, 2007 meeting of the Rules and Open Government Committee, Committee members requested that staff further investigate specific aspects of the bill and return to the May 16, 2007 meeting with a report.

This supplemental report summarizes the questions raised by Committee members and provides answers. The original memorandum for AB 239 is available in the May 9, 2007 agenda for the Rules and Open Government Committee meeting.

RECOMMENDATION

The Housing Department recommends that the Rules and Open Government Committee review the additional information gathered and consider a position of **support for AB 239**.

ANALYSIS

The following is a summary of the questions posed by Committee members and the corresponding answers.

How many local governments in the State rely on recording fees for the funding of their housing trust funds?

Many local governments in California levy taxes and fees as part of real estate transactions, but none use these taxes and fees to fund housing trust funds. Current state law does not allow for recording fees to be used for housing trust funds (though \$1 per page fees are commonly used for other

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purposes such as election materials and court equipment). AB 239 is intended to serve as enabling legislation that would allow Contra Costa and San Mateo Counties to expand the uses of recording fees to include funding housing trust funds.

According to the Center for Community Change's *Housing Trust Fund 2007 Progress Report*, the predominate funding sources for State, county, multi-jurisdictional, and city housing trust funds are recording/real estate transfer fees and taxes.

Thirty-eight states and the District of Columbia have created 49 statewide housing trust funds. These state housing trust funds have collected over \$1.28 billion annually for affordable housing. Seven states collect over \$50 million annually for statewide housing trust funds – 4 of these 7 collect revenues through real estate transfer taxes. Thirteen state housing trust funds are funded at least in part through real estate transfers or document recording fees.

Of the 83 county housing trust funds in the United States, 55 rely on real estate transfer taxes or document recording fees. These 55 county trust funds are located in four states: Colorado, Maryland, Missouri, and Pennsylvania. For example, Pennsylvania counties' trust funds were made possible through Act 137, which was passed by the State Legislature in 1992. Today, 51 of the State's eligible 66 counties have established trust funds for affordable housing. The Act enabled counties to increase document fees for the purpose of funding affordable housing. According to the Pennsylvania Housing Finance Agency, Pennsylvania counties have raised more than \$125 million for affordable housing programs. Each year, Pennsylvania counties collect nearly \$16 million for their housing trust funds, all of which is raised by real estate transfers.

How does the local Association of Realtors feel about AB 239?

At the request of Councilmember Cortese, Housing Department staff spoke with Heide Wolf-Reid, Board member of the Santa Clara County Association of Realtors (SCCAOR), about AB 239. Housing staff heard from Ms. Wolf-Reid that SCCAOR, like the California Association of Realtors, is opposed to the measure. Housing staff informed Ms. Wolf-Reid that a memorandum would be going forward to the Rules Committee on May 16th requesting a support position for AB 239. Staff also noted that, depending on the Rules Committee direction, the recommendation would likely go to full City Council consideration either May 22, 2007 or May 29, 2007. Staff e-mailed Ms. Wolf-Reid an electronic copy of the memorandum. Staff also said that Ms. Wolf-Reid or other members of SCCAOR should feel free to attend these meetings and provide public comment, if they desired.

PUBLIC OUTREACH/INTEREST

To clarify the position of the local real estate community for AB 239, Housing Department staff spoke with Heide Wolf-Reid, Board member of the Santa Clara County Association of Realtors (SCCAOR).

Housing Department staff spoke with the following contacts to acquire more information about AB 239 and housing trust funds: Taylor Dial and Salvador Castro, Jr. of the Housing Trust of Santa Clara County; Marty Buxton, private developer in Contra Costa County; and Rob Wiener, California Coalition for Rural Housing.

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Supplemental Report

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COORDINATION

This memorandum was prepared with coordination from the City Attorney's Office.

CEQA

Not Applicable.


LESEYE KRUTKO
Director of Housing