



Memorandum

**TO: RULES AND OPEN
GOVERNMENT COMMITTEE**

**FROM: Leslye Krutko
Joseph Horwedel**

SUBJECT: SEE BELOW

DATE: August 10, 2007

Approved *Deana Patna*

Date *8/11/07*

Council District: All
SNI: All

SUBJECT: SB 2 (CEDILLO) – BY-RIGHT HOUSING

RECOMMENDATION

The Housing Department recommends that:

1. The Mayor and City Council oppose SB 2 (Cedillo).
2. The Committee provide a one-week turn around for Mayor and City Council review.

OUTCOME

If the Rules and Open Government Committee and the Mayor and City Council accept staff's recommendation, the City lobbyist could begin opposing SB 2.

BACKGROUND

The 2006-2007 State Legislative cycle has featured over 100 housing-related bills. Of these, over 20 bills seem to be particularly relevant to the residents of San José, the Housing Department, and the City. SB 2 is one of these bills; as such, Housing Department staff is presenting it to the Rules and Open Government Committee.

ANALYSIS

A fact sheet with an analysis of SB 2 is attached.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This legislative item does not meet any of the above criteria.

COORDINATION

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

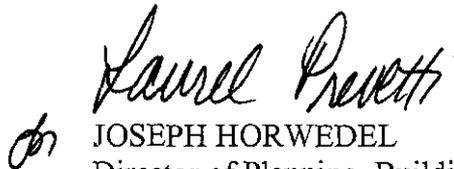
POLICY ALIGNMENT

The attached fact sheet and analysis are consistent with the Council-adopted 2007 Legislative Guiding Principles, and the Council-adopted guidelines.

CEQA

Not a project.


LESLYE KRUTKO
Director of Housing


JOSEPH HORWEDEL
Director of Planning, Building, and
Code Enforcement

SB 2 (CEDILLO) – BY-RIGHT HOUSING

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

The bill seeks to help address homelessness by requiring every city and county to identify a zone or zones where emergency shelters can locate without a conditional use permit or other discretionary approval. The bill stipulates that this zone or zones must have sufficient capacity to address each community's own need for emergency shelter, and must be able to accommodate at least one shelter. Additionally, the bill requires cities and counties to treat transitional housing and supportive housing like any other multifamily housing project. Lastly, the bill prohibits cities and counties from disapproving shelters and transitional and supportive housing projects unless the denial is based on narrow health and safety findings.

How would the passage of this bill affect San José?

SB 2 would require San Jose to select specific areas where homeless shelters could be located and would require the Department of Planning, Building and Code Enforcement to approve shelters ministerially, meaning without a public hearing or City Council approval.

The City is very concerned with this measure for several reasons. First, this bill is not consistent with the federal government's call to eliminate chronic homeless through a Housing First approach. In 2003 the City of San Jose adopted a Homeless Strategy in response to the Federal government's call for an end to national homelessness within the next ten years. The central theme of the City's strategy, while continuing to support the function of shelters, now emphasizes a shift away from emergency and transitional housing and instead focuses on solving the problem of homelessness through permanent housing solutions. Secondly, the City is concerned that such sensitive projects like homeless shelters and transitional housing should be handled through a public process.

What is staff's Proposed Position?

While the City appreciates the author's intent to address the vital problem of homelessness within California communities, it is not entirely consistent with San Jose's, or many other cities', recently adopted strategies to end chronic homelessness. SB 2 remains focused on fostering shelters and transitional housing as opposed to rapidly re-housing people in permanent locations as outlined in the City's Council-adopted strategy. In addition, the City is also opposed to the provision of SB 2 that would require the local government to allow emergency shelters without conditional use or discretionary permit. If a local government has determined the need and has previously demonstrated it has met its regional fair share numbers, this provision is unnecessary and may ultimately make it more controversial to site supportive housing.

Who are the bill's supporters and opponents?

As of June 5, 2007, supporters of the bill include American Federation of State, County and Municipal Employees (AFSCME), CA Council of Community Mental Health Agencies, California Rural Legal Assistance Foundation, Central City Association of Los Angeles, City of Los Angeles, City and County of San Francisco, Gray Panthers California, Housing California, and Western Center on Law and Poverty. The bill has been opposed by the State Department of Finance and the City of Oakland.

The League of California Cities (LOCC) has not taken a position but our City's Sacramento lobbyist has confirmed that the LOCC is currently working with the author's office regarding unofficial concerns.

What is the current status of the measure?

On May 17, 2007, SB 2 passed out of the Senate 27-11. The bill passed out of both the Assembly Committees on Local Government and Housing and Community Development. The bill is now in the Assembly Appropriations Committee awaiting hearing.

Are there fiscal impacts of this bill for San Jose?

If this measure were to take effect, there would be costs associated to the City for re-zoning land to accommodate emergency shelters. While some of these costs could be absorbed through the General Plan update process, there would still be an extra level of detail and process that would need to be taken in order to zone enough land to meet the emergency shelter needs. However, there would be a slight savings to the City, should the bill take effect, related to the elimination of a public hearing process.