

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
PHONE: (415) 904-5202
WEB: WWW.COASTAL.CA.GOV



June 9, 2023

Senator Scott Wiener
1021 O St., Suite 8620
Sacramento, California 95814

RE: SB 423 (Wiener) California Coastal Commission Oppose Unless Amended

Dear Senator Wiener:

On Wednesday, June 7, 2023, the California Coastal Commission voted unanimously to oppose SB 423 unless amended to retain the current language of Government Code Section 65913.4(a)(6)(A).

It is important to note that a number of Commissioners spoke in support of your goal to build more multifamily housing in the Coastal Zone. Further: all stated their support for more affordable housing for low and moderate income residents and for those who work in the Coastal Zone. It is the Commission's position that it can support the goals of your legislation and adherence with the Coastal Act to achieve more multifamily housing in these areas.

Since its creation in 1976, the Coastal Commission has worked diligently to promote housing, and particularly affordable housing, in the coastal zone consistent with the protection of other coastal resources. The Coastal Act originally included broad policy language requiring the provision of affordable housing in the coastal zone for persons of low and moderate income. Pursuant to this authority, in its first five years (1977-1981) the Commission permitted approximately 5,000 units of deed-restricted, affordable housing within market-rate subdivisions. The Commission also prevented the demolition of approximately 1,300 existing affordable units, and collected over \$2 million in in-lieu fees for the construction of affordable housing. Unfortunately, these affordable housing accomplishments were controversial, and in 1981 the Legislature repealed the Commission's authority to protect and provide affordable housing in the coastal zone (SB 626, Mello, 1981). Despite this, the Commission has continued to push the boundaries of its limited ability to preserve what little affordable housing still exists on the coast and to encourage and allow affordable housing in appropriate contexts. Notably, the Commission has never denied an affordable housing project in its 50-year history. All of these efforts have been motivated by the Commission's perspective that promoting affordable housing and protecting coastal resources are not mutually exclusive.

SB 423 would remove the coastal zone exclusion from Section 65913.4, so that qualified multifamily housing in the coastal zone would be a use by right and subject to ministerial approval. Removing the coastal zone exclusion could have significant,

detrimental impacts on coastal resources, with only nominal benefits for housing. The impacts would be most significant in coastal jurisdictions that do not have a certified Local Coastal Program (LCP). In these areas, the Coastal Commission, not the local government, is still the entity issuing coastal development permits (CDPs) and the standard of review is the Chapter 3 policies of the Coastal Act. Coastal Act policies are qualitative, not objective. These requirements include but are not limited to maximizing public access, minimizing coastal hazards, avoiding significant disruption of sensitive habitat, and other policies. If project review and approval is limited to only objective policies,, SB 423 would have the effect of exempting qualified housing projects in uncertified jurisdictions from the Coastal Act. Projects would be approved ministerially by local governments without any requirement to analyze and address impacts on public access, coastal wetlands, sensitive habitats, bluff top and earthquake hazards, flooding due to storm surge and Sea Level Rise which are often present even on sites zoned for multi-family housing within coastal cities and counties.

In coastal jurisdictions with a certified LCP, the bill would similarly exempt qualified projects from any LCP policy that is not objective, resulting in similarly detrimental resource impacts. And while the bill seeks to honor local planning standards, it is worth noting that objective standards may be overridden through the application of Density Bonus Law and an increasing number of other state laws that grant broad exceptions to local zoning and development standards.

We understand the goal of facilitating housing production by shifting the paradigm of regulatory review from a discretionary exercise based on qualitative and objective standards, along with public input, to a ministerial act that is conducted on purely objective standards. However, the inherent complexities of effective coastal management do not lend themselves to a standardized review process. For instance, the appropriate distance by which development must be set back from a bluff edge in order to be safe is a site-specific calculation that considers numerous engineering, geologic, and climatic factors. For example, many LCPs provide an objective bluff setback but often due to a site-specific analysis, the Commission requires a longer setback to protect the structure from erosion and earthquake hazards. Failure to analyze these factors risks imperiling public safety, as illustrated by the multifamily units that have been evacuated and re-tagged in Pacifica in past years and in San Clemente this year.

SB 423 retains the existing Government Code section that excludes areas identified in FEMA flood maps. But these maps are based on historic conditions, not future sea level rise scenarios. They do not consider increases in sea level, storm surge, and erosion in the future, based on the best available science, which is rapidly evolving. As currently written, the Coastal Commission and local governments will have no ability to factor realistic sea level rise and erosion risks into project approvals. In this way, the bill weakens the state's climate safeguards, and is contrary to California's carefully planned and longstanding climate change adaptation efforts. Not accounting for coastal hazards undermines the fundamental goal of the bill, as it promotes new housing in places where that housing may in the near future be damaged or destroyed.

It is important to note that the urbanized areas of the coast where this bill would apply are where the coastal zone is at its narrowest, in some places just several hundred feet wide. These areas have the greatest value for public access and low-cost visitor serving amenities such as beach access and coastal trails. However, they are also the areas most coveted by developers for market-rate housing. When the ministerial approval process of SB 423 is combined with design exceptions allowed by Density Bonus Law and other statutes, the Coastal Commission expects the result will be luxury, high-rise, ocean-view developments for predominantly wealthy buyers and investors, with only nominal amounts of affordable housing. Sadly, this has been the predominant history of development in the Coastal Zone since the Commission's affordable housing authority was repealed.

Land use planning is predicated on making development decisions that advance multiple policy priorities at once. On the coast, these priorities include but are not limited to providing abundant and affordable housing, protecting sensitive coastal resources, adapting to sea level rise, protecting public trust lands and maximizing public access to our beaches and coastal bluffs. The public spoke in the 1970s regarding the importance of protecting the coast and ensuring that state law, not subject to local interests, would plan and permit in this priority zone either through Local Coastal Plans or by the Commission. Consistently over the intervening years, the Commission enjoys 90% approval ratings from the public but typically not from Local Governments or developers who view our authority as a barrier to their efforts to develop in the Coastal Zone.

To summarize: the current coastal zone exclusion in the Government Code is not a free pass that relieves coastal communities from contributing to the State's housing needs. Rather, it is a mechanism for preserving the permitting process which ensures that coastal zone projects provide needed housing while also advancing California's coastal policy priorities. We urge you to consider retaining Section 65913.4(a)(6)(A).

The Coastal Act can and should be a tool for the state to achieve its affordable housing goals in the Coastal Zone, rather than being cast as an impediment. We welcome the opportunity to work with you and your staff on amendments that will allow the Commission to demonstrate that multifamily housing including affordable housing and coastal protection are not and should not be mutually exclusive. Thank you for your attention to this letter and I hope to talk with you and your staff in the near future.

Sincerely,

A handwritten signature in blue ink that reads "Donne Brownsey". The signature is written in a cursive, flowing style.

Donne Brownsey
Chair
California Coastal Commission