

MOTION

Senate Bill 9 (Atkins) (the “Bill” or “SB 9”), entitled the California Home Act, was signed into law by the Governor on September 19, 2021 and becomes effective on January 1, 2022. The Bill amends Government Code Section 66452.6, and adds two new Government Code Sections 65852.1 and 66411.7; and The Bill will require cities and counties, including charter cities, to provide for the ministerial (or “by right”) approval of a housing development containing two residential units of at least 800 square feet in floor area (“duplex”) and a parcel map dividing one existing lot into two equal parts “lot split” within a single-family residential zone for residential use; and

SB 9 eliminates discretionary review and public oversight of this proposed subdivision of one lot into two parcels by removing public notice and hearings by the Planning Department, by requiring only administrative review of the project, and by providing ministerial approval of a lot split, and also offers several opportunities to extend the time, up to 10 years, for the use of an approved or conditionally approved Tentative Parcel Map. The Bill exempts SB 9 projects from environmental review as required by the California Environmental Quality Act (CEQA), by establishing a ministerial review process without discretionary review or a public hearing, thereby undermining community participation and appropriate environmental review; and

SB 9 further stipulates that a city or county cannot require a duplex project to comply with any standard that would prevent two units from being built on each resultant lot, and would prohibit a local agency from imposing regulations that require dedications of rights-of way or the construction of offsite and onsite improvements for parcels created through a lot split; and

In addition to various constraints on SB 9 developments as set forth in SB 9, the Bill also authorizes cities and counties to enact local SB 9 implementation ordinances and guidelines that are objective and that are not inconsistent with its mandatory provisions; and

It is important that the City of Los Angeles begin immediately developing a local SB 9 implementation ordinance with associated guidelines and not repeat the past mistakes related to State Housing legislation, specifically the State’s 2017 Accessory Dwelling Unit Bill (AB 2299) which became effective on January 1, 2017; however, the City of Los Angeles took approximately 3 years to enact a local ordinance for its implementation; and

Due to the Bill’s enactment on September 12, 2021 and its effective date of January 1, 2022, there is not sufficient time for a publicly-considered implementation ordinance to be developed, publicly reviewed, and adopted by January 1, 2022; however, in the short-term, the City can and must develop a memorandum to obligate all City Departments and agencies to abide by interim rules and requirements to implement SB 9 locally until such time as the permanent ordinance is adopted; and

The City must also establish a minimum threshold by which certain SB 9 projects cannot be ministerial and must be subject to greater scrutiny in terms of a public hearing process and heightened environmental review; and

There remains significant unanswered questions about legal, ownership, county-city, and interdepartmental responsibility pursuant to SB 9 implementation that need to be resolved; and

It is important that both the short-term memorandum and long-term ordinance establish basic precepts applicable to all SB 9 projects, including, but not limited to:

1) **Objective Zoning/Subdivision/Design Standards.** The Bill authorizes the City to impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to structures and parcels created by an urban lot split that do not conflict with this section or preclude the construction of two 800 square foot minimum housing units. Accordingly, all such existing objective City standards shall apply to SB 9 projects, in addition to any additional objective standards that the City may adopt.

2) **Maximum of Four Units and Two Lots.** SB 9 obligates the City to allow two units per lot, and one lot split, for a total of four units and a total of two lots (parcels). The City is not required and shall not allow any additional units or structures (such as ADUs), nor any further lot splits, on any parcel that has been split once and on which four units have been approved.

3) **Parking.** The Bill allows the City to choose to require parking consistent with the terms of the Bill. Accordingly, the City shall require off-street parking of one space per unit, unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code or there is a car share vehicle located within one block of the parcel.

4) **Setbacks.** SB 9 allows the City to choose to require setbacks consistent with the terms of the Bill. Accordingly, the City shall require setbacks of up to four feet from the side and rear lot lines in all SB 9 projects and circumstances that are not expressly exempted from such a requirement by the Bill.

5) **Applicant Residency.** The Bill requires every SB 9 applicant to provide an affidavit confirming that the applicant intends to reside in one of the SB 9 units for three years. To fulfill this obligation, the City shall require the applicant to sign and record an affidavit placing a covenant that will run with the land to confirm that the applicant will reside in one of the SB 9 units for three years from the City's grant of the application where a unit already exists, or, if no unit then exists, for three years from the City's issuance of the unit's Certificate of Occupancy.

6) **Affordable Covenant.** There is at present an urgent Statewide and City concern about the provision of affordable housing. Every SB 9 project in the City shall require that a fifty-five-year affordable covenant restricting rents to moderate income household (80-120% of AMI), or

owner-occupation with price ceiling equivalent to current FHA mortgage limits. These limits shall be applied to all new units and listed on the HCID registry of affordable units or the applicant must pay the commensurate linkage fee that goes toward the City's provision of affordable housing.

7) **Impact/Development Fees.** The City shall require the payment of impact or development fees related to the specific impact that will be imposed on a community by the creation of a SB 9 second lot and additional units. Impact fees can be related to a variety of impacts including but not limited to infrastructure, construction impacts, recreation, libraries, and public art.

8) **Special District Exemptions.** SB 9 exempts historic districts and structures from its terms, and also retains the protections of the California Coastal Act. However, Los Angeles has many other special districts that shall be exempted from SB 9 including Survey LA documented historic areas and properties, HPOZs, equestrian-zoned areas, hillside areas with substandard streets, wildlife corridors, habitat blocks, natural resource protection plans, high fire, and high wind zones. Findings of unavoidable adverse impact shall be made pursuant to SB 9 if and as required, for these areas. These districts shall be exempt and protected from SB 9 development.

9) **Unavoidable Adverse Impacts.** The Bill authorizes the City to deny an SB 9 project upon written findings, based on a preponderance of evidence, that the project will have a specific, adverse impact upon public health and safety or the physical environment for which there is no feasible method to mitigate or avoid. The City shall assess every SB 9 application for such unavoidable adverse impacts, shall provide its written assessment to the applicable City Council Office, and shall deny a project if an unavoidable adverse impact is identified.

Findings of unavoidable adverse impact shall be made pursuant to SB 9 if and as required, for these areas. These districts as identified above and others as appropriate shall be exempt and protected from SB 9 development.

10) **Notification Requirements.** Every SB 9 filing shall require the City to notify those property owners and tenants within a 500-foot radius from the proposed project site that a parcel map has been filed with the City, until an ordinance is adopted.

I THEREFORE MOVE that the Department of Building and Safety, with assistance by the City Attorney and City Planning Department, prepare a memorandum prior to December 31, 2021 that shall be used by all Departments and agencies until such time as a local implementation ordinance is adopted inclusive of the ten above mentioned precepts.

I FURTHER MOVE that the Council instruct the Planning Department with the assistance of the subdivision committee to confirm objective standards specified geography to maintain unique needs for lot design and midpoint width, parking, affordability requirements for first time home buyers based on FHA loan limits for single-family dwellings and duplexes, limits on total dwelling units on substandard streets and when the development fails to comply with LAMC 12.21-C1(g), grading, hauling, adjustments to building pads, and private streets within maps.

I FURTHER MOVE that the Council instructs the Planning Department to develop prohibitions such as, but not limited to, two units per split lot, changes in grade, hauling, adjustments to building pads, and private streets, removal of protected and desirable trees without replacement.

I FURTHER MOVE that the Council instruct the Planning Department to prepare a report that discusses the feasibility of potential exemptions for high fire hazard severity zones, habitat for protected species, horse keeping, substandard roadways, or other geographic areas as determined for which the implementation of SB 9 would result in a specific, adverse impact.

I FURTHER MOVE that the City Planning Department, with the assistance of the City Attorney and Department of Building and Safety, begin developing a work program for the preparation of the permanent ordinance for the implementation of SB 9.