



San Francisco | San José | Oakland

June 15, 2022

The Honorable Scott Wiener
Senate Housing Committee
California State Senate

**Re: AB 1850 (Ward) Public housing: unrestricted multifamily housing.
- SUPPORT IF AMENDED**

Dear Chair Wiener:

SPUR, the San Francisco Bay Area Planning and Urban Research Association, recommends a **support if amended** position on Assembly Bill 1850 (Ward). We encourage you to vote on the bill as the author proposes to amend it prior to or in committee with one caveat, which we detail below.

SPUR and the Turner Center for Housing Innovation have been working for several months on a forthcoming report outlining the role that Joint Powers Authority (JPA)-owned middle-income housing can play in addressing the need for middle-income housing in California. The report documents how JPA-owned middle-income housing is a highly scalable model that has enabled over 13,800 units of housing to be acquired and converted to deed restricted middle-income housing units without drawing on conventional sources of affordable housing funding.

While this model can be a powerful tool to help create more middle-income housing, legislative guardrails are needed to help ensure these projects provide sufficient public benefit. Our joint forthcoming report with the Turner Center makes several recommendations (including the following) to ensure that public benefit is provided:

Stronger affordability terms

We believe that JPA-owned middle-income housing should be subject to a minimum standard of affordability terms and requirements. This could include codifying a requirement for long-term deed restrictions that go beyond the term of the bond financing and ensuring meaningful affordability below market-rate rents for the subset of units specifically targeting low-income tenants at or below 80% of AMI. For acquisitions, a requirement for non-displacement clauses should be codified to ensure no tenants are evicted as a result of the transaction. There should also be a regulated standard codified to cap rent growth.

Capped transaction and operating fees

The fees generated by the key parties that control the transaction — the city, the JPA and the project administrator — should be limited to reasonable amounts that still properly incentivize the parties for their involvement in the transaction. While high fees may have been warranted as the program was initially launched, these fees should be appropriately lowered to better reflect underlying risk and to create more economic headroom for reduced rents.

We are pleased that many of the amendments being offered by the sponsor and author of this legislation help to address these recommendations, including the provision of 55-year deed restrictions, the inclusion of a non-displacement clause, minimum affordability requirements, caps on rent growth and the caps on fees.

We continue to be concerned that the proposed cap on compensation for the Project Administrator in the form of subordinate debt (i.e. the “B” bond) may be overly restrictive. We want to ensure that Project Administrators continue to be incentivized to acquire properties and convert them to permanent affordability so that as many of these projects as possible can move forward. We look forward to continuing to work with the author and the sponsor to address this issue.

Additionally, while we are very supportive of the concept of terminating the right of the Project Administrator to receive benefit from the subordinate B bond if the Project Administrator is fired for cause, we recognize a need for further due diligence to assure the legality of such a provision in this legislation. We understand that the author and sponsor are supportive of continued due diligence in this area.

AB 1850 represents only a partial solution to the broader set of issues raised in our report. Over the longer term, a durable and flexible system of regulatory oversight is needed both for acquisitions of multifamily as well as new construction that may use this model. SPUR looks forward to working with the sponsor – in coordination with the Administration and the Treasurer’s Office – on future legislation to ensure that a state housing agency is tasked with regulating this program and licensing specific JPAs to work in specific regions of the state. That longer term oversight can help ensure that, for example, JPAs are not bidding against one another for properties and that appropriate underwriting standards are utilized in these transactions.

Thank you for your consideration of our comments and of this important legislation. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'SK', is positioned above the typed name.

Sarah Karlinsky
Senior Advisor
SPUR