

California Extends Validity of Housing Entitlements During the COVID-19 Crisis

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On September 28, 2020 Governor Gavin Newsom signed into law Assembly Bill (“AB”) 1561, which extends “by 18 months the period for the expiration, effectuation, or utilization of a housing entitlement” that was in effect on March 4, 2020 and will expire prior to December 31, 2021. In its findings, the Legislature explained that the law was a necessary response to the COVID-19 public health emergency, the consequent economic recession, and the effect of both on the State’s housing affordability crisis. The Legislature anticipates significant impacts to local agencies’ planning processes and project approvals.

The new law extends the validity of qualifying “housing entitlements” by 18 months. A “housing entitlement” includes any:

- “Approval, permit, or other entitlement” pertaining to a housing development project issued by a state or local agency;
- “A ministerial approval, permit, or other entitlement by a local agency required as a prerequisite to issuance of a building permit for a housing development project;” and
- “A requirement to submit an application for a building permit within a specified period of time after the effective date of a housing entitlement described above.”

A “housing development project” includes:

- “A tentative map, vesting tentative map,” or parcel map for which a tentative map has been approved;”
- A residential development;
- A mixed-use development in which at least two-thirds of the square footage is designated for residential use, subject to specified calculations.

The AB 1561 extension, however, does not apply to certain planning approvals. For example, there is no extension for the term of development agreements, a “preliminary application” as defined in Government Code section 65941.1, an application for development approved pursuant to Government Code section 65913.4 (streamlined ministerial approval for certain affordable multifamily housing projects), or a tentative map that was extended for 18 months on or after March 4, 2020 under Government Code section 66452.6 (a map timing extension for projects in which a subdivider is required to spend \$236,790 on public improvements outside of the property).

Under AB 1561, qualifying development applicants will benefit from additional time to overcome any impacts the Coronavirus Pandemic has had on a project's planning, financing, or construction. This bill represents one of many housing bills that the Legislature has enacted during the 2019-2020 Legislative Session in an effort to encourage housing construction and enlarge the stock of affordable housing units in California.

Buchalter has experienced real estate and environmental law attorneys who can assist clients with the complex world of COVID-19 orders and directives. Please feel free to contact any of the Buchalter attorneys below.



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