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Chief Executive Officer

May 16, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION TO INSTRUCT THE COUNTY'S SACRAMENTO ADVOCATES TO SUPPORT SB 391 (DESAULNIER) (AGENDA ITEM NO. 8, MEETING OF MAY 21, 2013)

Item No. 8 on the May 21, 2013 Agenda is a motion by Supervisor Ridley-Thomas instructing the County's Sacramento advocates to take all appropriate action to support the passage of **SB 391 (DeSaulnier)**, legislation which would establish a $75 recordation fee on real estate transactions, excluding home sales, in order to generate approximately $500 million annually for affordable housing.

Approval of this motion to support SB 391 is consistent with existing Board-approved policies to support proposals that address affordable housing needs; however, as this bill proposes new/increased fees, **taking a support position on SB 391 is a matter for Board policy determination.**

Bill Overview

Under existing law, various programs provide emergency and low-income assistance and housing. Historically, the majority of affordable State housing subsidies were funded from proceeds from the sale of bonds pursuant to State General Obligation Bond law. In addition, until 2011, the Community Redevelopment Law required redevelopment agencies to set aside 20 percent of all tax increment revenue to increase, improve, and preserve the community's supply of low- and moderate-income housing. Separately, current law requires or permits the processing of and associated fees for the recording of real estate instruments, papers, or notices.

SB 391 (DeSaulnier), as amended on May 7, 2013, would impose a $75 fee on the recording of real estate instruments required or permitted by law in order to help fund affordable housing programs. The bill exempts documents made in connection with the sale of real property. In collecting these new fees, SB 391 would allow county recorders to deduct any necessary administrative costs incurred. The bill would allow the Legislature to expend the newly created revenues on affordable housing, specifically the development, acquisition, rehabilitation, and preservation of housing affordable to low- and moderate-income households, including, but not limited to, emergency shelters; transitional and permanent rental housing; foreclosure mitigation; and homeownership opportunities. Funds would also cover periodic audits intended to ensure funding is awarded in a timely and geographically balanced fashion.

According to the bill sponsors, SB 391 would create 29,000 jobs annually, primarily in construction; would generate an estimated $500 million in State investment; and leverage an additional $2.78 billion in Federal and local funding and bank loans to build affordable homes.

County Impact

Community Development Commission

The Community Development Commission notes that while SB 391 aims to establish permanent funding for affordable housing development, it fails to explain how funds would be allocated to jurisdictions. CDC indicates that under the current law, the Housing Authority of the County of Los Angeles (HACoLA) administers the City of Industry Funds Program (Industry Funds) to develop affordable rental housing for non-special needs and special needs populations. As a result of the dissolution of the State's redevelopment agencies, the fate of the approximately $18 million in annual funding dedicated for this purpose is now uncertain. Additionally, the 20 percent housing set aside generated by the Community Development Commission's former redevelopment agency, which equals about $800,000 annually, has been eliminated. The State affordable housing funding reductions are coupled with the reductions in federal funding sources dedicated to affordable housing production, such as the HOME Investment Partnerships Program, which has been reduced by nearly 50 percent when combined with the sequestration cuts.

The Community Development Commission indicates that without a replacement funding, such as established by SB 391, local jurisdictions could be out of a major source of revenue for the development of affordable housing for the County's most vulnerable residents. However, because the bill fails to address the allocation method, CDC suggests supporting the bill if amended to clearly identify the plan for releasing the funds. They note that without a clear plan for direct distribution to local agencies, the funds could be held up at the State or diluted through additional layers of pass-throughs. The Housing Authority of the County of Los Angeles recommends the bill be amended to include the following provisions:

- retain local control over the funds; provide that housing successor agencies receive at least half of the revenues from the recordation fee;
- specify how exactly the funds are to be allocated or awarded; and
- allocate funds directly to local agencies and avoid pass-throughs at the State.

The Community Development Commission indicates that maintaining local control of affordable housing funds is important for several reasons, including that it would permit earlier commitment of funds to projects and provide developers with site acquisition and predevelopment expenses. In addition, direct local distribution would allow local officials to provide input into the implementation of housing policy, specifically the prioritization of geographic areas for housing development, assistance to target populations and the provision of services.

Registrar-Recorder/County-Clerk

The Registrar-Recorder/County-Clerk (RR/CC) indicates that while the intent of SB 391 is noteworthy, it would dramatically impact their customers and potentially the full recording of documents. RR/CC reports concerns including:

- Recording fees would increase from $10 to $75, an increase of 750 percent.
- The fee would be per document, not transaction. A family refinancing their home to lower mortgage payments (where at least four documents are recorded), would have to pay total recording fees that could exceed $300.
- It would increase the burden on homeowners facing default. At least five different documents can be filed in this process, creating an additional financial burden.

According to RR/CC, such dramatic fee increases could unintentionally encourage people from completely recording all vital documents, impacting the County's ability to maintain full records that are available to the public for research and resolving disputes.

The Registrar-Recorder/County-Clerk recommends the County consider these issues carefully before taking a support position, and suggests the County work with the author to identify a less burdensome approach. RR/CC points out that SB 391 exempts real estate sales, a significant share of recordable documents, and including these might reduce the per document fee burden across the board.

Conclusion

Support for the affordable housing provisions of SB 391 is consistent with existing policies to support: 1) proposals that provide incentives to local governments and/or developers to increase and protect affordable housing and flexibility for counties to promote a diversity of affordable housing types through local policies; 2) proposals to provide additional resources for meeting the capital and operational costs of housing production and related supportive service needs of low- and moderate-income families and the needs of special populations, including elderly, disabled, and mentally ill persons; and 3) proposals to address affordable housing needs on a multi-jurisdictional basis. **However, as this bill deals with new/increased fees, taking a position on SB 391 is a matter for Board policy determination.**

SB 391 is currently pending hearing in the Senate Appropriations Suspense File. As an urgency bill, SB 391 would require a two-thirds vote from the Legislature, and if enacted, would take effect immediately.

We will continue to keep you advised.

WTF:RA
MR:PC:ma

c: Executive Office, Board of Supervisors
County Counsel