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October 15, 2020

Despite Disappointing Legislative Session, Existing State Laws Can Change the Game for Housing Developers

This year's legislative session was disappointing for all those who understand that California's dire shortage of housing is largely due to cumbersome entitlement processes and long-standing local constraints on production. Several bills failed that would have forced cities to allow more housing. While we can hope that next year's legislative session will bring greater success, focusing too narrowly on what the Legislature failed to accomplish this year risks missing how significant the changes of the last few years have been. The work of reform is far from over—and the causes of the housing crisis are far from adequately addressed—but the law governing housing development has changed in fundamental ways. State law now offers a roadmap to increasing housing production with fewer local constraints.

In assessing a new project, a developer and its counsel once may have focused primarily on reviewing relevant provisions in the local general plan and zoning code. Yet several state laws, some older and some newer, can change the game for a project by overriding these local density restrictions, development standards, and entitlement processes. This makes it critical to consider state law alongside local regulations from a project's earliest stages.

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