

April 5, 2018

The Honorable Senator Mike McGuire
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Sacramento, CA 95814

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The Fair Housing Promise of SB 827

Virtually every metropolitan region in the United States is marked by stark and persistent patterns of racial and economic residential segregation. This is not an accident or a result of individual choices. Over generations, racially segregated residential patterns were systematically promoted and often created by federal, state, and local housing law and policy. In the 20th century, the federal government implemented racially discriminatory mortgage financing programs intended to residentially segregate the races and create predominantly white middle-class towns and suburbs surrounding central cities. These policies were reinforced by banks and insurance companies emulating them as well as widespread private housing discrimination against non-white families.

Restrictive zoning and related land-use policies have, since their very inception, played a critical role in establishing and maintaining patterns of residential segregation. Among the first restrictive zoning ordinances were those that explicitly sought to separate residents by race, not simply by use. The Supreme Court first struck down these efforts in *Buchanan v. Warley* in 1917, but restrictive zoning and land use policy continues to be used to segregate residents by race [and income](#). Communities developed so-called “use” or Euclidean zoning constraints that would serve the same purpose without using explicit racial terms.

After the enactment of the Fair Housing Act in 1968, communities and municipalities whose neighborhoods formed with the use of racially discriminatory housing policies sought new ways to maintain segregation. The use of restrictive zoning to achieve racial segregation intensified. By the early 1970s, ostensibly race-neutral restrictive zoning laws and land use practices proliferated, with clear segregative effects. This arrangement has largely been ignored by the courts and legislative branches of government.

Tactics used to make housing inaccessible or prohibitively expensive for people of color and low income families include detached, single-family housing, front yard and building setbacks, restrictive floor to area ratios, parking requirements, and height and density requirements. These policies prevent

developers and land owners from developing affordable housing near areas of employment and public transportation, locking out many low income people and people of color from high job growth areas.

Senate Bill 827, “Planning and Zoning: Transit-Rich Housing Bonus,” a bill introduced in to the California legislature by state Senator Scott Wiener, is one of the most innovative and important efforts in the nation to attack restrictive and exclusionary local land use policies that maintain and exacerbate these segregative patterns. SB 827 abrogates such policies by mandating minimum density and height requirements in parcels near high-quality transit.

SB 827 is based on the recognition that federal, state and local funds have been used to construct and maintain public transportation systems that serve our various communities. Local land use policies which restrict housing and minimize density near these investments not only undermine the impact of these investments, but have the further effect of denying access to them for people who rely upon them.

Most importantly, SB 827 directly attacks what social scientists describe as “the spatial mismatch,” the disjuncture between residence and employment opportunities. By opening up higher opportunity communities to more affordable development, this approach has the potential to provide access to life-enhancing resources for traditionally excluded people. Segregation is never just about separating people from each other, but more about separating some people from opportunity and life-enhancing resources. Too many communities with the best job prospects are inaccessible or inconveniently accessible to entry level or low- and middle-income job-seekers. By overriding exclusionary land use policies in many of our highest job growth centers or places where public transit connects users to those centers, SB 827 strikes at the heart of this problem. By circumventing cost-inflating restrictive zoning barriers, SB 827 would allow more affordable housing than is currently permitted to be constructed where public transportation systems can carry job seekers to employment centers.

An intended byproduct is that by promoting housing near transit, SB 827 will reduce reliance on automobiles to connect workers with employers, and therefore reduce carbon emissions caused by private transit and long commute times. It will do this both by building housing so that more job seekers can live closer to employment opportunities and by reducing reliance on private transportation and car ownership to reach job centers.

SB 827 is a significant and laudable effort to attack the problem of racial and economic segregation both directly and indirectly. Of course, SB 827 alone cannot solve the problem of racial residential segregation, but it is a major step in the right direction, by overcoming the most pernicious force that maintains racial and economic segregation, restrictive and exclusionary land use policies. In concert with other state bills such as SB 828, which will amend and strengthen California’s Regional Housing Need Allocation law, which functions as a multi-level inclusionary zoning law, SB 827 is a critical step towards housing equity and fairness.

We note that some affordable housing and tenants’ rights organizations have expressed concerns over SB 827. [Recent amendments](#) designed to safeguard local inclusionary zoning ordinances, protect local residents from displacement through a statutory ‘right to remain’ guarantee, and prohibit demolition of

rent-controlled housing, which we applaud, helps to address some of these concerns. At least some of the grounds presented in opposition to SB 827, however, are based not on disagreement with its provisions or aims, but on concerns the bill does not go far enough in certain respects. While we would support additional legislation to expand inclusionary zoning, for example, we find opposition on grounds that this bill does not go far enough to be misplaced. SB 827 is well tailored to attack the problems of restrictive zoning and the spatial mismatch. Given that the status quo is fundamentally unacceptable, the perfect must not be the enemy of the good.

We write from our particular vantage point as fair housing experts who understand how segregated living patterns profoundly contribute to group-level racial inequality in our society. We clarify this perspective to explain why our conclusion regarding SB 827 is different from other equity advocates who have expressed opposition to SB 827. While segregation across California's metropolitan regions is paradoxically exacerbated by displacement from historically segregated and disinvested neighborhoods, this is occurring even in the absence of new development. The balance of available evidence leads us to conclude that this law will exert downward pressure on quantifiable measures of racial and economic segregation over time. There may be appropriate ways to strengthen SB 827, but the basic framework should be maintained, including limiting the right of local jurisdictions to opt out.

We the following undersigned fair housing experts and advocates applaud this bill as a major step towards promoting integration and reducing racial residential segregation for the foregoing reasons. While the debates will continue over amendments, the core focus on attacking restrictive zoning and addressing the spatial mismatch should serve as a national model.

Signed,

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