



California Rural  
Legal Assistance  
Foundation



## Fact Sheet: AB 2502 (Mullin and Chiu) Protecting Local Inclusionary Housing Programs

**Summary** AB 2502 would protect locally enacted inclusionary housing programs, which help ensure that all new housing developments include a certain percentage of homes affordable to lower-income households.

**Background** Local inclusionary housing programs in California have proven to be one of the most effective tools for producing new homes affordable to working families and creating strong, diverse neighborhoods with a range of housing choices. Nearly 170 cities and counties have some form of inclusionary housing requirement in place as a complement to other local, state, and federal programs to address California's affordable housing shortage.

Inclusionary housing programs have been in place in California for decades. However, an appellate court decision—*Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009)—has created uncertainty and confusion for local governments and housing advocates regarding the future viability of this important local land use tool. The *Palmer* court held for the first time that the state's Costa-Hawkins rent control law prohibits local governments from creating affordable rental housing through inclusionary programs. In the wake of this decision, a well-established local tool that has provided quality affordable housing to over 80,000 Californians is in doubt.

**Restoring Local Discretion** AB 2502 restores local governments' ability to enact inclusionary housing programs by clarifying that Costa-Hawkins does not apply. The bill would amend the state's Planning and Zoning Law, the statutory scheme from which much of a local government's land use powers are derived, to make clear that inclusionary zoning is a permissible land use power.

**Prior Legislation** AB 2502 is identical to AB 1229 (Atkins, 2013), which Governor Brown vetoed, noting that he wanted to await the outcome of *California Building Industry Association v. City of San Jose*, a case challenging the constitutionality of inclusionary policies. The California Supreme Court issued a unanimous ruling in that case in June in favor of inclusionary zoning. With the constitutional question settled, the time is right to address the *Palmer* decision and affirm the ability of local governments to choose to require as a condition of project approval the inclusion of homes affordable to lower-income households.

### Support

- Western Center on Law & Poverty (co-sponsor)
- California Rural Legal Assistance Foundation (co-sponsor)
- Non-Profit Housing Association of Northern California (co-sponsor)