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A Whole New Ballgame: What The Housing Crisis Act Of 2019 (Sb 330) Means For Housing Developers, Local Governments, And Go-Slow Opposition To New Residential Development Projects In California

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A new set of ground rules for processing and approval of residential development projects has found its way into law and became effective January 1, 2020. The “Housing Crisis Act of 2019,” sponsored by State Senator Skinner (D.- Berkeley), seeks to end foot-dragging by local governmental decisionmakers in the application process for new housing development projects by forcing the determination that project applications are complete, requiring such determinations to be based on objective, published standards and criteria, and imposing specific time-lines for processing, including limits on the number of public hearings a project applicant can be compelled to endure before a project is deemed approved. It also creates an early vested right to have the application for a housing development project considered under the rules and policies in effect at the time the application is submitted, rather than after some later date when the application is determined to be complete, and limits local governmental discretion to enact later changes in those rules and policies in the guise of addressing “public health and safety.” While it does not directly compel actual approval of housing development projects, the Act sets up a series of procedural hurdles the local government needs to clear in order to deny approval. Importantly, it shifts the burden of proof to the local government to demonstrate that the housing development project does not conform with existing policies and rules in order to disapprove or conditionally approve a project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the initial project application was deemed to be complete.To provide “teeth” to these provisions, all of which significantly change the dynamics of the land use application and approval process for housing developments, the law also creates penalties, including damages and attorney’s fees, for a local government that skirts or evades the requirements of the law, and mandates court-directed remedies including forced approval of projects that meet these standards.

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