



Redwood
Public Law

Denser, Higher and Beyond: State Density Bonus Law and SB 79

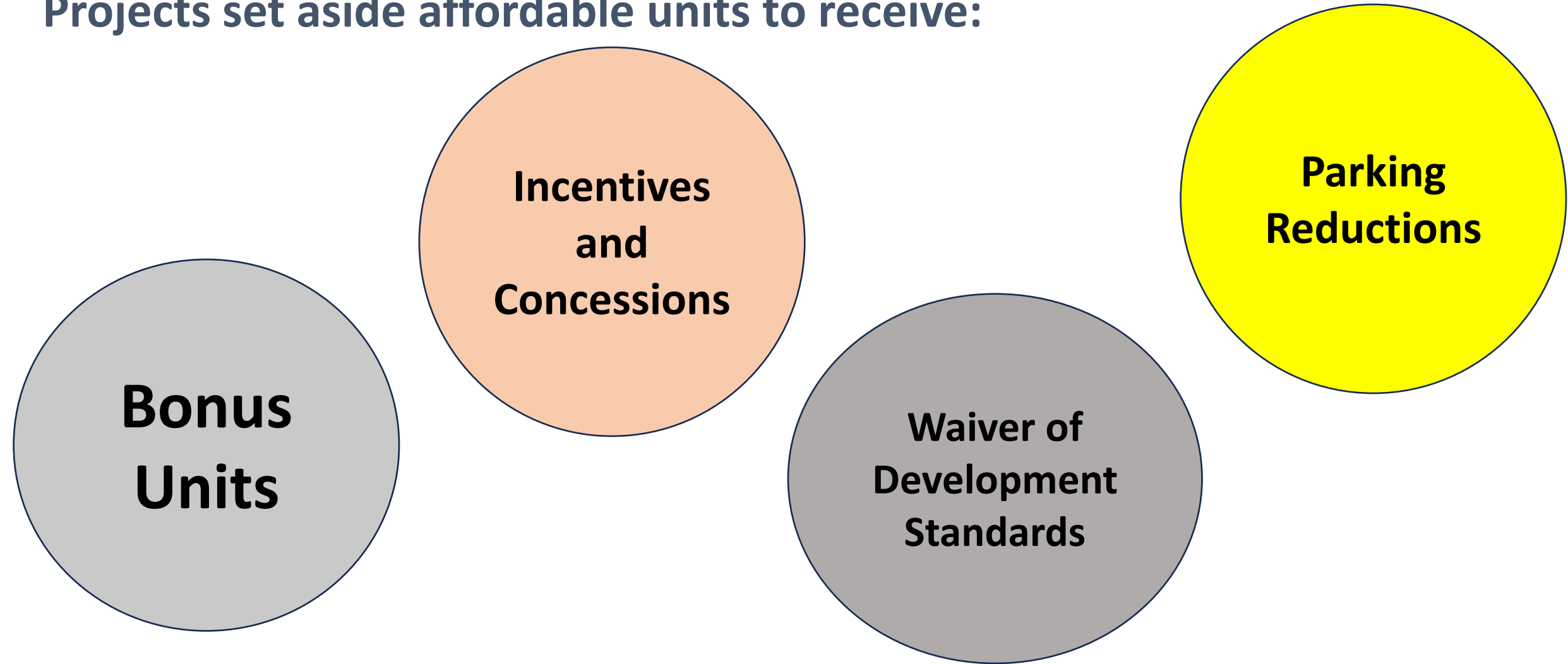
LOCC Spring City Attorney's Conference 2026

An aerial photograph of a city skyline at dusk, with a harbor in the foreground. A large sailing ship is visible in the water. The city is densely packed with buildings, and hills are visible in the background. The entire image has a blue tint.

State Density Bonus Law

State Density Bonus Law

Projects set aside affordable units to receive:



**Bonus
Units**

**Incentives
and
Concessions**

**Waiver of
Development
Standards**

**Parking
Reductions**



State Density Bonus Law

Scope of City Authority

- Findings required to deny concessions/incentives and waivers
 - *“Specific, adverse impact”, historic property impacts, violation of law*
- Cannot require financial pro forma
- Must waive standards precluding the project designed by the developer
- Liberal construction of Density Bonus Law
- “Reasonable Documentation” for density bonus + requests
- No “direct financial incentives”, including fee waivers
- Can require density bonus agreements



State Density Bonus Law

Notable Legislative Changes Over the Years

- **“Maximum allowable [gross] residential density”**
 - The greatest number of units under Zoning, Specific Plan, or Land Use Element
- **Additional Benefits for 100% Affordable Projects**
 - 80 percent density bonus, 3-story or 33 feet height increase, no maximum density control, and elimination of parking requirements
- **50% Bonus + “Stacking” Density Bonus**
 - Initial maximum density bonus increased from 35 to 50 percent
 - Stacking available for 50 percent density bonus projects
 - Projects can obtain 100 % density bonus through stacking



State Density Bonus Law

- **Voter-Approved Standards**
 - Subject to waivers or reductions (i.e. height limits)
- **Bonus for Student Housing and Residential Care Facilities**
 - Student housing requires 20% affordable to lower income
 - Senior Housing and RCFEs receive 20 % fixed bonus (no affordable units)
- **For Sale Unit Used to Qualify for Density Bonus**
 - Must be sold to qualifying households with equity sharing agreement, or to qualified nonprofits
- **Mixed-Use Developments (SB 92 (2025))**
 - Incentives/concessions for commercial floor space is limited to 2.5x of local zoning allowance



State Density Bonus Law

Special Cases

Density Bonus for “Non-Traditional” Projects

- Condo Conversions
- Commercial projects + affordable housing
- Residential projects with childcare facilities

FAR Bonus

- High Density infill Projects Near Transit
- Commercial and Industrial Projects with Child Care Facilities



State Density Bonus Law

Common Issues in Applying SDBL and Processing Applications

Request to waive minimum density

City Housing Element site, minimum density zoned is 30 du/ac

- developer requests waiver to build 10 du/ac

Against Density Bonus Law's intent

- Statute is intended to produce “maximum number of units”
- Density bonus is granted over the maximum residential density

No Net Loss

- Site will produce less than projected unit yield and income level in Housing Element)

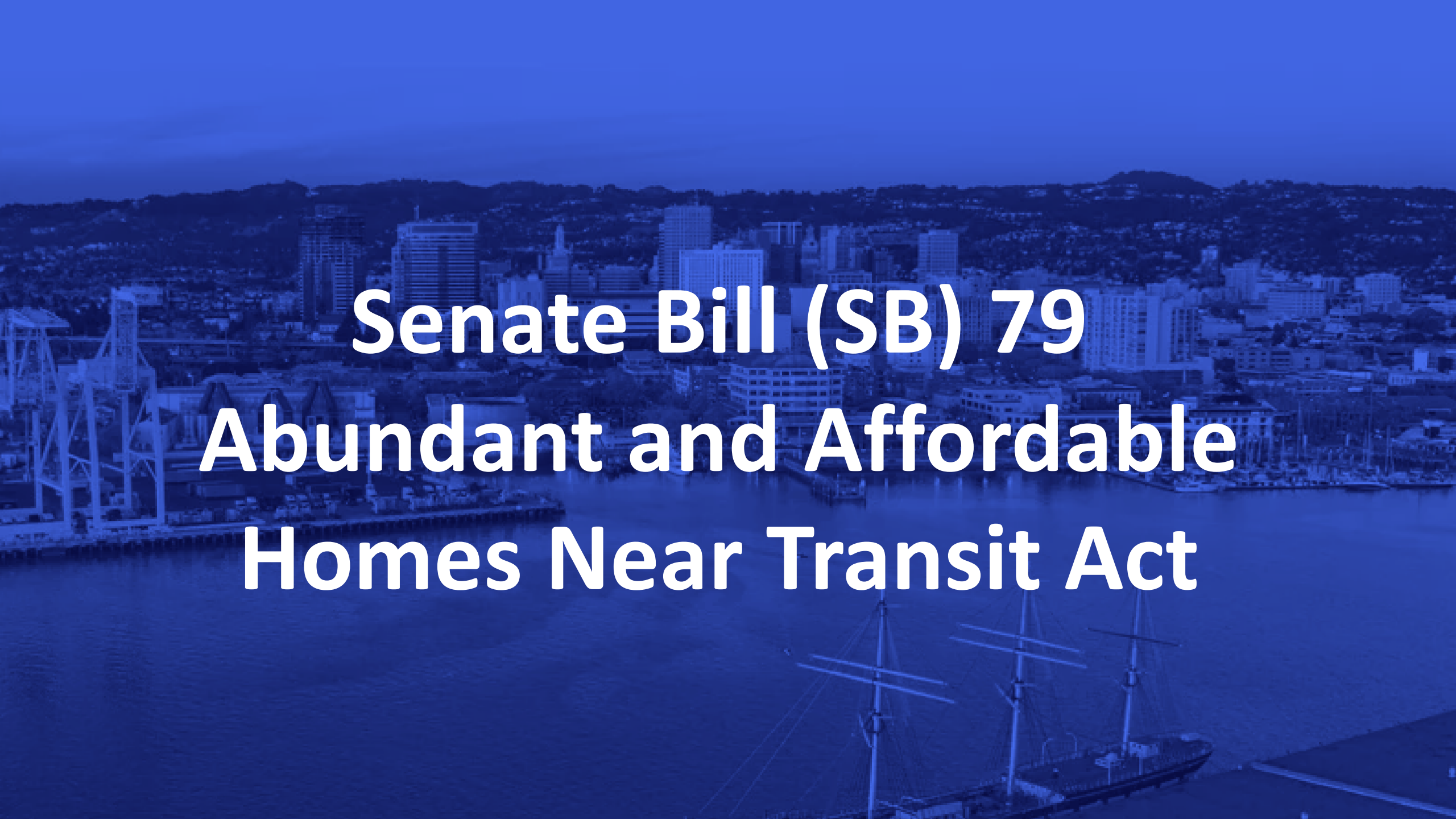


State Density Bonus Law

Common Issues in Applying SDBL and Processing Applications

- **Incentives/Concessions for impact fees and in-lieu fees**
 - Cities not required to provide “direct financial incentives”
 - But note density bonus projects are not subject to affordable housing or inclusionary fees (GC 65915.1)
 - More challenging for in-lieu fees; base requirement is something else
- **Base Density in Housing Element?**
 - Are housing element densities for inventory sites a requirement for base density?
- **ADUs and SB 9**
 - 5 units to trigger density bonus requirements





Senate Bill (SB) 79

Abundant and Affordable Homes Near Transit Act

If At First You Don't Succeed...

~~SB 827~~ (2018)

~~SB50~~ (2020)

SB 79 (2025) ✓



Where Does It Apply?

- Applies in “urban transit counties” = county with more than 15 passenger rail stations
- Limits the law’s application to:

Alameda	San Diego
Los Angeles	San Francisco
Orange	San Mateo
Sacramento	Santa Clara



Tier 1 TOD Stop

- TOD stop served by heavy rail transit or very high frequency commuter rail (at least 72 trains per day across both directions)

Tier 2 TOD Stop

- TOD stop served by light rail transit, by high-frequency commuter rail (at least 48 trains per day across both directions), or by bus rapid transit service with headways of 20 minutes or less during the morning and afternoon peak commute periods



Eligible Projects

- Be a “housing development project” as defined in the HAA
- Contain at least 5 residential units
- Be on a site zoned for residential, mixed-used, or commercial uses
- Density of at least 30 units/acre, or the applicable local density minimum, whichever is greater
- The average size residential units may not exceed 1,750 habitable square feet
- Meet law’s affordability requirements or comply with local inclusionary ordinance



What SB 79 Provides

For all Cities				
	Distance to TOD Stop	Maximum Density	Maximum Height	Maximum FAR
Tier 1 TOD Stop	Within ¼ mile	120 units/acre	75 feet	3.5
Tier 2 TOD Stop	Within ¼ mile	100 units/acres	65 feet	3.0
City with Population of at least 35,000				
Tier 1 TOD Stop	Within ½ mile	100 units/acre	65 feet	3.0
Tier 2 TOD Stop	Within ½ mile	80 units/acre	55 feet	2.5

***Projects immediately adjacent to TOD stop can increase density by 40 units/acre, height by 20' and FAR by 1.**



Labor Standards

- Projects over 85' must pay prevailing wages and use a skilled & trained workforce



vs.



Local Implementation – Temporary Flexibility

- ***If*** city adopts ordinance to implement SB 79 and bring Zoning Code into compliance with the law
- ***Then*** until one year following adoption of the city's 7th Housing Element revision, SB 79 doesn't apply on the following sites:
 - Within a very high fire hazard severity zone
 - Vulnerable to one foot of sea level rise
 - With a historic resource designated as of January 1, 2025
 - That permit density and FAR at 50% or more of the otherwise applicable standards under SB 79
 - All sites within a TOD zone if 33% of sites in zone permit density/far at 50% of SB 79 Standards and those sites cumulatively allow for a 75% of aggregate density.
 - Lower standards in low-resource areas



CALIFORNIA

Four-story buildings allowed in some single-family zones under L.A.'s plan to delay SB 79

■ HOUSING

Palo Alto looks to rezoning to limit impacts of state housing bill

Projects near public transit would see massive upzoning under new law

REGIONAL

L.A. City Council to allow apartments in some single-family zones to delay SB 79

The expansion of development incentives was the least aggressive of three options the Council considered



Local Implementation

- Ordinance can exempt areas within .5 miles if City shows no walking path less than 1 mile
- May adopt “transit-oriented development alternative plan” that modifies the densities and redistributes the zoned capacity provided by SB 79
 - May not reduce the maximum allowed density for any individual site by more than 50%, with limited exceptions
- Transit agencies may adopt own standards for transit-owned property in TOD zone



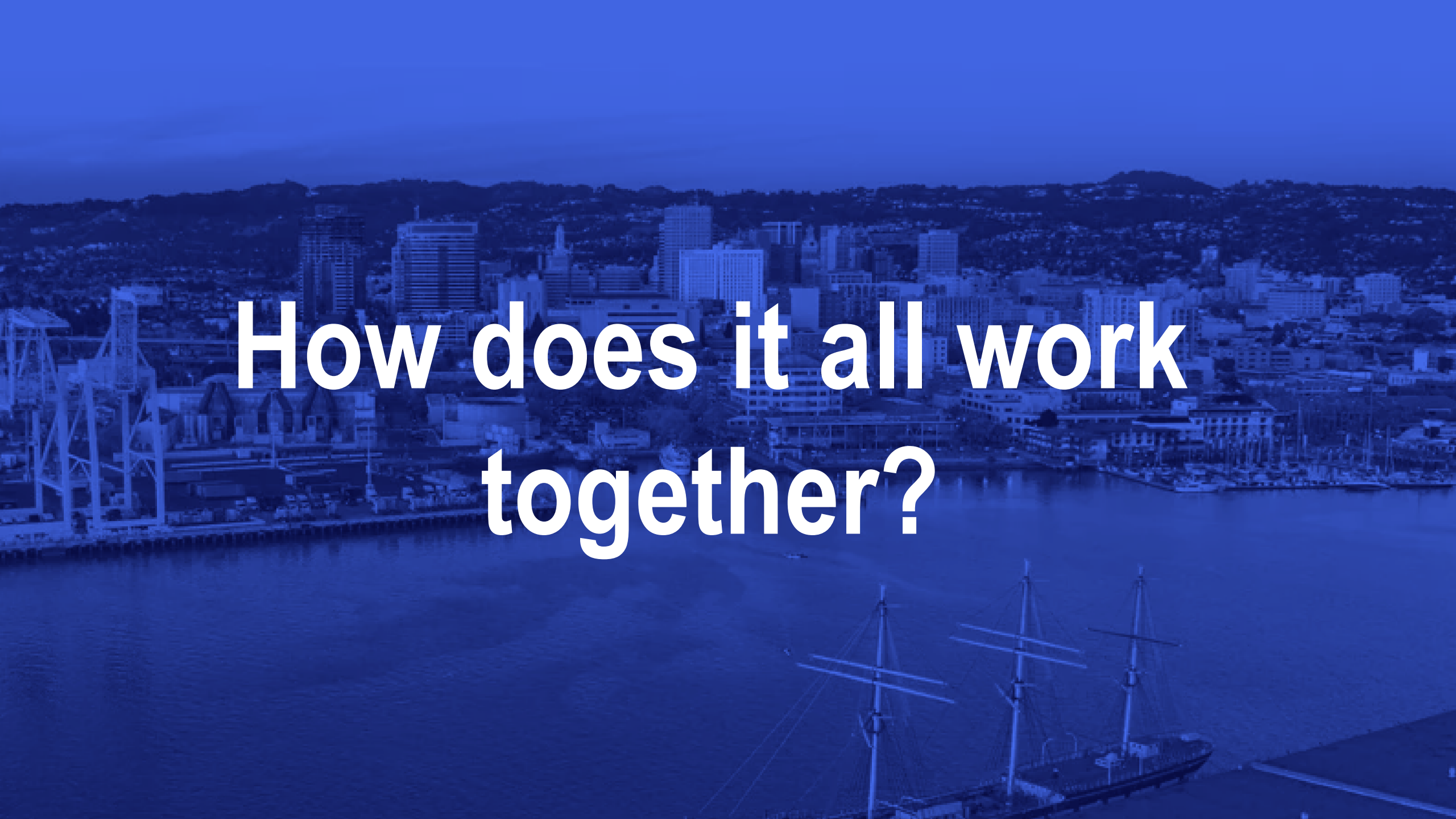
What does the future hold?

- Closing “Loopholes”?
- Expansion?

But...

- Key changes in Legislatures



An aerial photograph of a city harbor, likely San Francisco, with a blue color overlay. The image shows a dense urban landscape with numerous skyscrapers and buildings. In the foreground, a large sailing ship with three masts is docked at a pier. To the left, there are large industrial cranes. The water is calm, and the sky is a deep blue. The text "How does it all work together?" is overlaid in the center in a large, white, sans-serif font.

**How does it all work
together?**

Interactions with Other Housing Laws

Density Bonus <> SB 79

- Most SB 79 projects will automatically qualify for density bonus
- SB 79 project advantages when it comes to density bonus:

**At least a
24.5% density
bonus**

**At least one
concession**

**Additional concessions
beyond SDBL
If project achieves at least
75% of the maximum
density allowed for the
project site + provides
additional affordable
units**

**No increase
building
height above
the SB 79
maximum**



Interactions with Other Housing Laws

Density Bonus <> Other Streamlining Laws

- Projects utilizing Density Bonus are consistent with standards for purpose of the **Housing Accountability Act**
 - Builder's Remedy Projects receive additional concessions
- **AB 2011 and SB 6** projects (2022) (multi-family residential on sites allowing office, retail or parking uses) can utilize density bonus
- By-right supportive housing projects **AB 2162** (2018) are also eligible for density bonus benefits
- **Can SB 9 + ADU Projects utilize Density Bonus Law?**



Interactions with Other Housing Laws

SB 79 <> Other Streamlining Laws

- SB 79 projects are also considered consistent with standards for purpose of the **Housing Accountability Act**
- SB 79 projects eligible for **SB 35** regardless of whether city is otherwise subject to SB 35 based on RHNA progress
 - Can qualify with lower affordability percentages than otherwise required

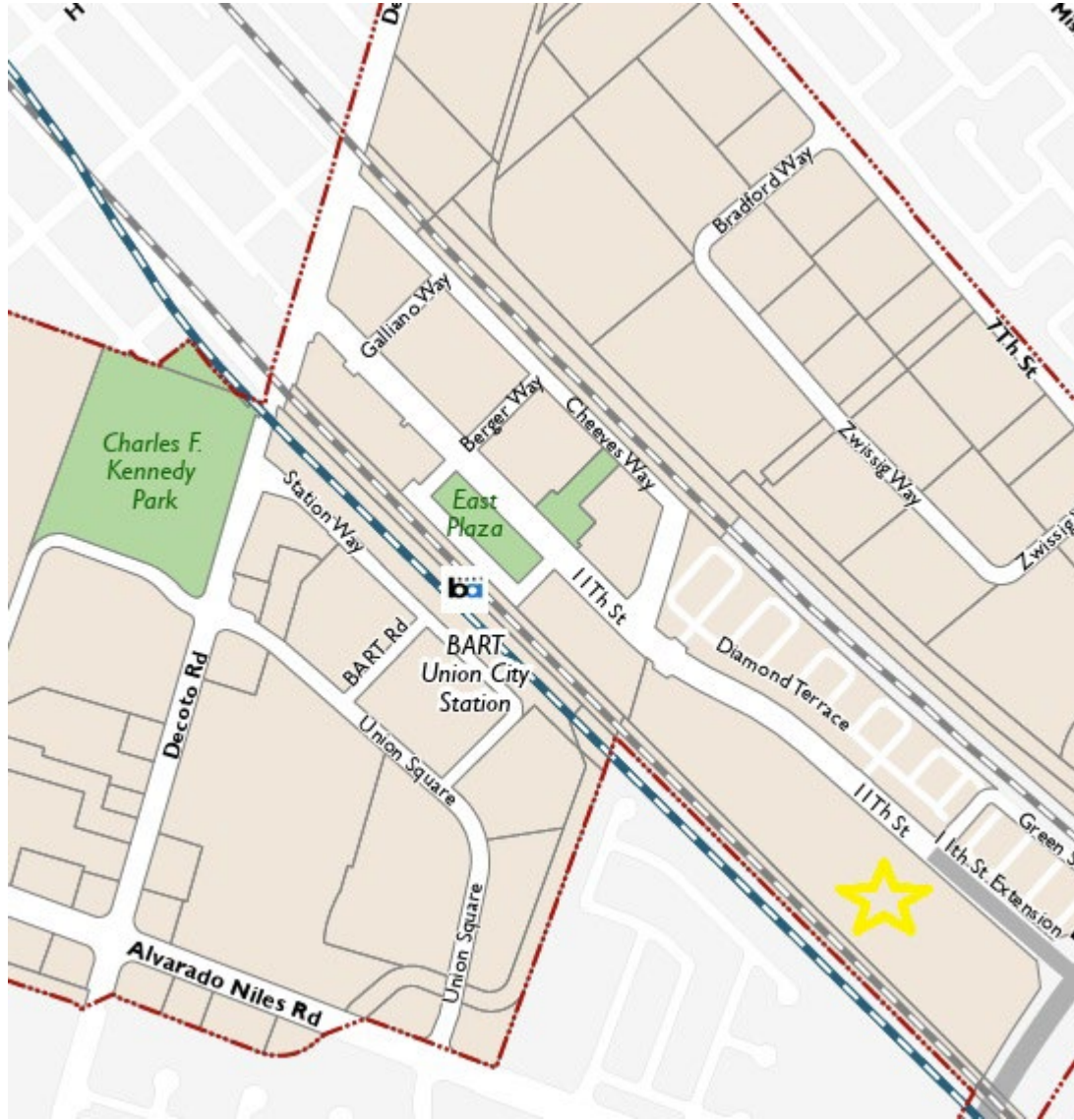


Interactions with Other Housing Laws

Density Bonus/SB 79 <> CEQA

- Neither Density Bonus Law or SB 79 create independent CEQA exemptions
- Could be exempt if utilizing other streamlining law
- Projects will often qualify for existing exemptions
 - Class 32 Exemption
 - Concessions and waivers is “consistent with applicable zoning and general plan” for the infill exemption
 - New AB 130 Exemption



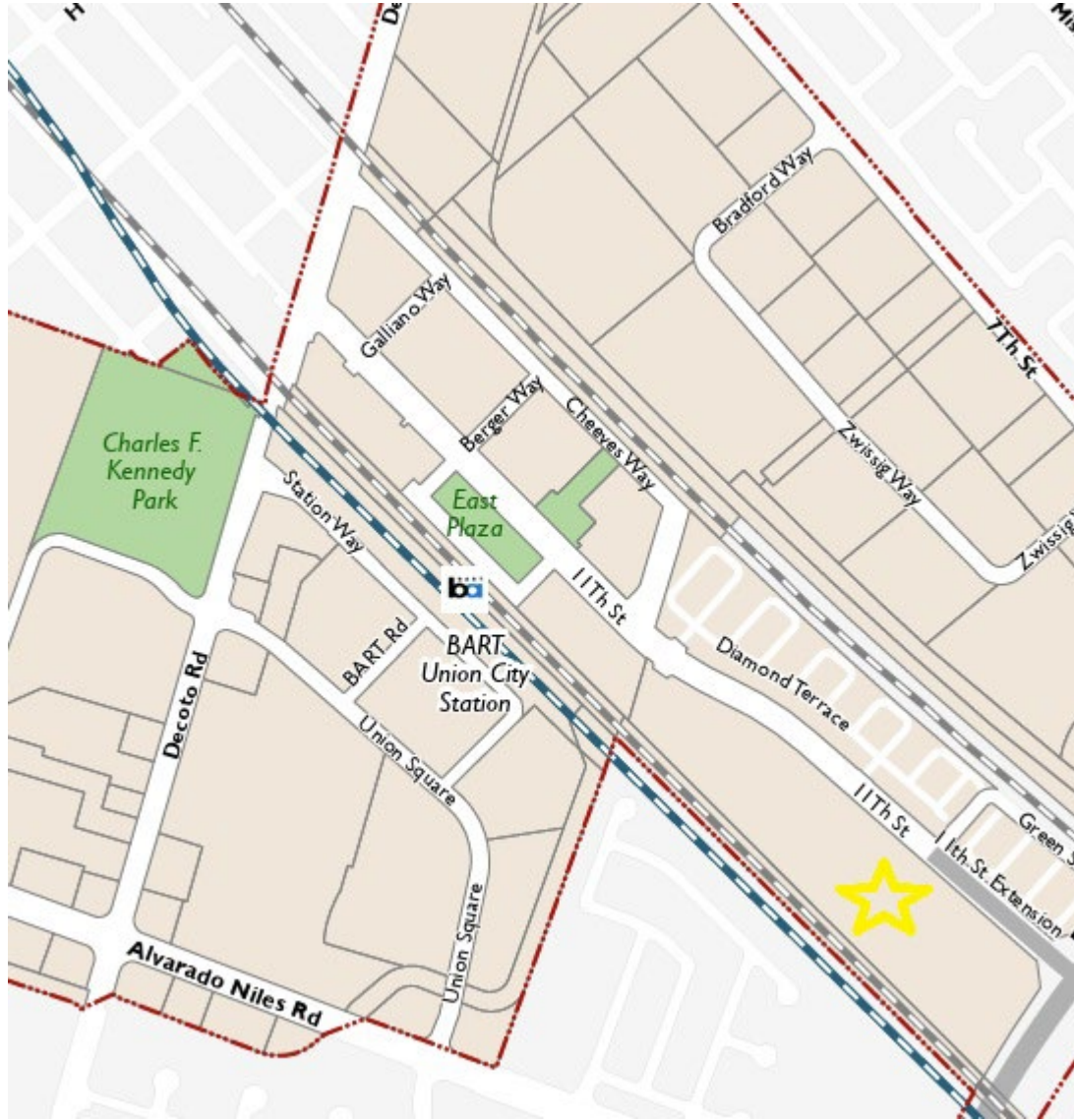


- Less than .25 miles from BART in city > 35,000
- City has inclusionary requirement of 15% low-income
- But...pedestrian path of travel is > 1 mile

Without SB 79 (City could adopt ordinance exemption the site)

- Project provides 15% Low-Income units to meet inclusionary
- Will qualify for 27.5% density bonus if providing 15% low income.
- 1 concession + unlimited waivers





BUT...City is in the process of constructing pedestrian crossing RR Tracks

- 120 units/acre, 75 feet, 3.5 FAR
- With density bonus 153 units/acres
- Minimum 1 concession
- Project likely qualifies for AB 130 Urban Infill Exemption





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