

July 5, 2005
Council Comments

by Councilman Fred Strong

In response to Mayor Mecham's request for information on meetings attended.

- I attended the League of California Cities Housing, Community and Economic Development Policy Committee meeting on June 23 and the Revenue and Taxation Policy Committee meeting [on behalf of Councilman Heggarty] on June 24 in Ontario. I will include a synopsis of my committee meeting herein. I have given Councilman Heggarty a copy of the materials plus my notes and comments on his committee and will defer to him on that report.

- I spoke with Dan Carrigg before the meeting about getting a staff take on the Supreme Court decision regarding condemnation which was handed down that morning in Washington D.C. Dan said he would see what he could do. When he did comment he indicated that he would have to get some legal opinions before saying much about it. However, he did say that California law has additional limitations on condemnation, especially in Redevelopment areas. I learned later that NBC also called him later that day to get his reaction on national radio.

- **Legislative -Regulatory Update :**

- SB 326 by Senator Dunn was discussed. Sen. Dunn reportedly has a reputation for getting consensus on a bill and then making changes without conferring. Therefore, the neutral recommendation was discussed and decided to be a watchful, neutral. However, I noticed that the bill is supposed to change definitions of multifamily projects to include duplexes and triplexes but, in fact, changes the definition to include all zero-lot-line or attached residential structures. That means that it would include townhouses and condominiums, even when they are built under a single family PD designation. Since the section being amended deals with restrictions upon local discretion in allowable restrictions, I made a motion to designate this bill for *watchful neutrality provided the definition is clarified to NOT include any single family residential uses*. The motion was seconded and passed unanimously. My concern, as expressed, was that this session they would change the definition and in a future session the legislature would change the restrictions on our ability to regulate without mentioning the changed definition which would already be in place. I intend to oppose incremental

dilution of local perogatives.

- The bill is currently supported by many stake holders in production of low income housing. It is opposed by the cities of Torrance, San Luis Obispo and Palm Desert.

- SB 575 by Sen. Torlakson is the "Anti-NIMBY" amendment Bill. The League is still negotiating some issues with the author.

- SB 434 by Sen. Hollingsworth is the Bill that grants a FOURTH local concession to low income home developers, even if they only provide 5% of their project as low income and even if they DO NOT show that they need it for the project to have financial feasibility. The League is still working with the author but is opposing the Bill as currently written.

- We also heard reports on the status of Bills to regulate residential downzoning, meet regional housing needs, and force Charter cities to also meet affordable housing regulations.

- We were given a handout and brief explanation of a recent Attorney Generals Opinion in response to a question by County Counsel Jim Lindholm of San Luis Obispo County. I am including the full text, especially because it was asked for by a local attorney which portends an intention to use the opinion. It is labeled as "Attachment 2".

- A few Bills were discussed, without position, regarding the extension of Redevelopment Agencies and their plans. The extensions include an additional 10 years for plans and an extension of up to 25 years which would include continued tax increment at 50% of the normal amount with a designation for use at 40% for infrastructure and 60% for affordable housing.

- The New London Supreme Court decision was also mentioned during this segment as having little effect in California. HOWEVER, there was a impassioned plea, during discussion, for us to oppose an effort by the California Bar "[at its upcoming San Diego meeting] to push for limiting Redevelopment condemnations to "dilapidated" buildings ONLY!

- The discussion on the Housing General Plan Task Force was extensive and covered many major areas of the planning, funding and regulatory process. This is an ongoing effort which includes the building industry and which focuses on low income housing. I entered the discussion by urging that this effort MUST include "workforce" housing considerations. That plea was augmented by the information that K and B, which is a major contribu-

tor to funding efforts in this area, is NOT interested in funding an effort that doesn't include "workforce" housing.

- Long term funding for low and moderate income housing is being pushed by Housing California [a consortium of nonprofit, low income, housing providers] and by the California Housing Consortium, headquartered in San Francisco.
- I am including the outline paper which we received for this topic. It is "yellow". The discussion stressed that longer term planning is now possible with new computer technologies and extensive data bases. The builders are looking for LONG TERM general plans with 10 years of reasonable certainty and five years of nearly ABSOLUTE certainty [barring natural disasters or major economic dislocation]. However, in the area of "certainty" we must agree on an approach and determine what the public thinks. We must ask if the public agrees and, if so, to what degree. If not, why not. We must determine a method of finding this out.
- As we push forward on low, moderate and workforce housing we MUST emphasize that proper planning for what must come down the road will lead to clean water, clean air and open space for the future. We must plan in ways to improve our quality of life over what it is now. I am stating the discussion that was held not, necessarily, my own opinion on all of this.
- I did volunteer to be on the committee to develop and seek specific, long term, funding for less than high end housing.
- The four questions posed to our break-out sessions were:
 - 1. Does it make sense to move the exercise of local discretion to a more up-front planning stage in exchange for new fiscal rewards for approving additional housing and less state control (e.g., reduced HCD role, density bonus law, etc.)?
 - 2. If this up-front planning effort is intended to provide more "certainty," how long should the plan be good for and what are the limited conditions under which it may be changed?
 - 3. Do you believe cities will be willing to take additional housing units in exchange for additional funding?

- **4. What type of funding streams would be the best incentive for cities?**
- **The “consensus” opinions on these things were generally agreed with small deviations.**
- **#1 was generally “yes” depending on what funding and how much autonomy we would be granted.**
- **#2 I mentioned this above.**
- **#3 perhaps, depending on the type and amount of funding ... as well as the “strings” that might be attached.**
- **#4 was not as clear cut. Finance managers were firm that maintenance and operations funding was preferred over capital project funding. Elected representatives were more divided on the issue.**

• **I also attended the conference for City Attorneys because it was primarily on land use legal updates. I did not attend the planners session down South. I have never reported back on what I learned at that conference. Iris was also there and I expected that she might make a report. Both of us have applied what we learned there to specific issues before the Council since then. Although that was in February I will give a VERY brief synopsis here.**

• **We received updates on legislation as well as court and Attorney General opinions handed down in specific cases. Those topics were followed by discussion and refinements as they apply to specific issues. The topics covered were affordable housing, hoe to do affordable housing “deals”, the “new math” of density bonus law, second units, Americans With Disabilities Acts, partnering with nonprofit organizations, fees and exactions, regulating adult businesses, CEQA on master planning and tiering, Supreme Court thinking on “taking” issues [This was greatly modified by the New London decision.] , nuisance abatement and code enforcement, due process in legislating and administering [proper procedures in “quasi-judicial” hearings, and current issues regarding the Subdivision Map Act.**

• **The education was intense and thorough. It got into details. For in-**

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stance, regarding code enforcement, it covered compelling compliance, various remedies including injunctive relief, a monetary “club”, allowed penalties and attorney fees. The options of infractions and misdemeanors was covered. Civil actions including using the Courts as a sword or shield. Dealing with title problems, prosecutorial immunity, “pushing the envelope”, restraining orders, settlement agreements, stipulated injunctions, mandatory vs discretionary penalties, limitations to 30% of net worth of the defendant, and how to structure an effective code enforcement ordinance. That was very thorough!

- **A full discussion of this conference would take up too much time and paper. If anyone is interested in discussing any of this more fully please contact me and I will arrange for a discussion. BETTER YET, contact Iris as she has more specific background upon which to draw.**

- **I received an email regarding a recent decision involving how we can charge certain fees. It relates well to our user fees but relates even more specifically to our water rates. I will share this more fully prior to the first meeting in August but it has raised a great caution to me about doing anything other than what has been proposed on general rates. However, it makes me think that we might want to consider other options for our Nacimientos fee structure [other than \$6 per user].**

Framework for Potential Housing Package

Planning

Regional Planning

- Develop the RHNA based upon improved growth data. Deference shifted from state to COG for validity of regional population and housing projections. State (DOF/HCD) has ability to challenge, but not dictate COG' projections.
- COGs distribute housing allocations to local governments on a 10-year cycle, instead of five.
- COGs identify areas (priority investment zones) where they desire to target incentives to encourage additional housing development.

Local Planning

- Local governments plan for housing needs on a 10-year cycle designating land and minimum densities. Plans are locally updated at five-year intervals.
- At least five years (of the 10-year supply) must be provided certainty. Locals identify the areas, designate minimum densities, specify development standards and architectural criteria, through process of public discussion and review.
- Adoption and amendment of plan subject to referendum. Plan may not be amended by initiative.
- Local governments can deny projects that do not meet plan's requirements, but can only deny project's that are consistent with the plan with a 4/5th vote and a health and safety finding.
- CEQA is streamlined for projects consistent with the plan.
- Plans are enforced by lawsuit, and through authorized fines against bad actors. Plans are not reviewed by HCD.
- State housing laws conflicting with "certainty" concept (density bonus law, etc.) are suspended in areas covered by local plans.

Financing

\$ - Paying for Planning

- A state-imposed fee on new housing accumulates sufficient funds to pay for all of the necessary local planning and environmental (estimated \$100 million per year). Local governments access planning funds from state pot.

\$ - Funding for Services

- Cities will receive \$600 (and counties \$200) in ongoing property tax revenues for each new high-density unit (greater than 10 units per acre) constructed in a city. Approximately \$50 million per year to backfill of the school's share of the property tax.

\$ - Options for Infrastructure

Funding for local infrastructure related to housing (in city infill areas and regional priority areas) will be paid for in one or more of the following ways:

- Authorizing infrastructure investment districts which use the tax increment model.
- Directing several \$billion in a potential state infrastructure bonds to these areas.
- Dedicating a portion of future property tax dollars (approx \$2 billion) which will become available after the state pays off its deficit bonds in 2014, or earlier).
- Pursuing a local 55% vote for special taxes.
- Authorizing a state-imposed transfer tax on real property sales (\$135 million per year @ .50c. Per \$1,000 of value.

\$ - Affordable Housing

- The need for a funding stream for affordable housing is a key goal. A property transfer tax is a potential option.

Attorney General Opines On Zoning for Regional Housing Needs

The Attorney General was recently asked for an opinion on whether or not a community could establish its maximum number of housing units by income category below the community's share of the regional housing needs, if the community found that federal and state funds were unavailable for its housing programs.

On May 19th, Attorney General Bill Lockyer issued opinion 03-104. In his analysis, he found that the number of housing units identified by a community does not need to be identical to the community's total share of the regional housing needs, if the community's share of the regional housing needs exceeds the resources available to the community. Therefore, the primary legal issue became whether or not federal and state housing funds should be considered resources available to a community. Citing Government Code Section 65583, subdivision (b)(2), Attorney General Lockyer found that federal and state housing funds constitute some of the resources of a community, and that other resources had to be considered before a community could establish a lower number of maximum housing units.

Attorney General Lockyer concluded that "A community may establish its maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period below the number of housing units that would meet the community's goal of achieving its share of the regional housing needs established pursuant to the Planning and Zoning Law, if the community finds that its available resources in the aggregate, including but not limited to federal and state funds for its housing programs, its own local funds, tax or density credits, and other affordable housing programs, are insufficient to meet those needs."

In other words, the Attorney General's opinion recognizes that while there may be limited instances where the maximum number of housing units may be less than the assigned regional number, local agencies taking this approach should proceed cautiously. The opinion also noted that local agencies taking such an approach will have to defend their housing number under the "substantial evidence" standard (under Gov't Code section 65587) if challenged in court. The Attorney General's opinion is provided below.

GOVERNMENT, LAND USE AND PLANNING

Opinion of Bill Lockyer

Ca. A.G. 4th

05-19-2005

A community may establish its maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period below the number of housing units that would meet the community's goal of achieving its share of the regional housing needs established pursuant to the Planning and Zoning Law if the community makes appropriate findings.

Opinion of Bill Lockyer

Ca. A.G. 4th

05-19-2005

03-104

Cite as 05 C.D.O.S. xxxx

OPINION of BILL LOCKYER, Attorney General; GREGORY L. GONOT, Deputy Attorney General

No. 03-104

Office of the Attorney General of the State of California

Filed May 18, 2005

THE HONORABLE JAMES B. LINDHOLM, JR., COUNTY COUNSEL, COUNTY OF SAN LUIS OBISPO, has requested an opinion on the following question:

May a community establish its maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period below the number of housing units that would meet the community's goal of achieving its share of the regional housing needs established pursuant to the Planning and Zoning Law if the community finds that federal and state funds are unavailable for its housing programs?

CONCLUSION

A community may establish its maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period below the number of housing units that would meet the community's goal of achieving its share of the regional housing needs established pursuant to the Planning and Zoning Law if the community finds that its available resources in the aggregate, including but not limited to federal and state funds for its housing programs, its own local funds, tax or density credits, and other affordable housing programs, are insufficient to meet those needs.

ANALYSIS

Under the Planning and Zoning Law (Gov. Code, § § 65000-66499.58), [FOOTNOTE 1] a "community" [FOOTNOTE 2] has the "responsibility to . . . make adequate provision for the housing needs of all economic segments of the community." (§ 65580, subd. (d).) This is accomplished through the adoption, amendment, and implementation of a general plan for the community (§ § 65300-65302), including a mandatory housing element (§ § 65580-65589.8). As part of this process, the community is directed to "establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period." (§ 65583, subd. (b)(2).) The question presented for analysis concerns the circumstances under which this "maximum number of housing units" may be set below the number that represents the community's total housing needs as established under the Planning and Zoning Law. We conclude that the availability of federal and state housing funds may be considered as one factor among many, including the availability of the community's own local funds, tax or density credits, and other affordable housing programs, in setting this maximum number below what would meet the community's total housing needs, including its share of the regional housing needs.

A community's general plan represents a comprehensive, long-term guide for its physical development. (§ 65300.) It contains an "integrated, internally consistent and compatible statement" of the community's policies (§ 65300.5), including "objectives, principles, standards and plan proposals" for all mandatory elements (§ 65302). (See *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2004) 126 Cal.App.4th 1180, 1194-1195; *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1106; *Hernandez v. City of Encinitas* (1994) 28 Cal.App.4th 1048, 1070; *Black Property Owners Assn. v. City of Berkeley* (1994) 22 Cal.App.4th 974, 978, 985; *Committee for Responsible Planning v. City of Indian Wells* (1989) 209 Cal.App.3d 1005, 1012-1013; *Buena Vista Gardens Apartments Assn. v. City of San Diego Planning Dept.* (1985) 175 Cal.App.3d 289, 294-295.) "The general plan 'is, in short, a constitution for all further development within the city.' [Citations]." (*Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 997; see *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 571; *Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.)

As a mandatory element of a community's general plan, the housing element must comply with strict state requirements (§ § 65580-65589.8). (See *Hoffmaster v. City of San Diego*, *supra*, 55 Cal.App.4th at pp. 1105-1106; *Hernandez v. City of Encinitas*, *supra*, 28 Cal.App.4th at p. 1058; *Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 985; *Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197, 1201; *Committee for Responsible Planning v. City of Indian Wells*, *supra*,

209 Cal.App.3d at pp. 1012-1013; Buena Vista Gardens Apartments Assn. v. City of San Diego Planning Dept., supra, 175 Cal.App.3d at p. 295.) A community is generally required to update its housing element every five years. (§ 65588; see *Hoffmaster v. City of San Diego*, supra, 55 Cal.App.4th at p. 1103, fn. 2; *Black Property Owners Assn. v. City of Berkeley*, supra, at p. 978.)

The principal statute requiring our interpretation is section 65583, which identifies the requisite components of a community's housing element. Section 65583 states in part:

"The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

"(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

"(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

".....

"(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. 'Assisted housing developments,' for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. 'Assisted housing developments' shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

"(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

".....

"(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

"(b)(1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement and development of housing.

"(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs.

The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

"(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

"(6)(A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

"....." [FOOTNOTE 3]

Subdivision (a) of section 65583 requires that a housing element include "[a]n assessment of housing needs" that quantifies "the locality's existing and projected housing needs for all income levels," including "the locality's share of the regional housing need in accordance with Section 65584." (See *Hoffmaster v. City of San Diego*, supra, 55 Cal.App.4th at pp. 1105-1106; *Hernandez v. City of Encinitas*, supra, 28 Cal.App.4th at p. 1060; *Northwood Homes, Inc. v. Town of Moraga*, 216 Cal.App.3d at p. 1201; *Buena Vista Gardens Apartments Assn. v. City of San Diego Planning Dept.*, supra, 175 Cal.App.3d at p. 295.) Under section 65584, a community's share of the regional housing needs is determined by a council of governments [FOOTNOTE 4] based upon a region's share of the statewide housing need as established by the Department of Housing and Community Development. (See *Hernandez v. City of Encinitas*, supra, 28 Cal.App.4th at pp. 1060-1061.)

In contrast to subdivision (a) of section 66583, we find that subdivision (b)(2) of the statute authorizes a community to determine its "quantified objectives," which sets "the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period." This maximum number of housing units "need not be identical to the total housing needs," identified in subdivision (a) of the statute, if the community's total housing needs, including its share of the regional housing needs, "exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements . . ." (§ 65583, subd. (b)(2); see *Hoffmaster v. City of San Diego*, supra, 55 Cal.App.4th at pp. 1107-1109; *Hernandez v. City of Encinitas*, supra, 28 Cal.App.4th at pp. 1061, 1066; *Buena Vista Gardens Apartments Assn. v. City of San Diego Planning Dept.*, supra, 175 Cal.App.3d at p. 305.)

Accordingly, the legal issue to be resolved is whether federal and state housing funds constitute part of a community's "resources" for purposes of setting the community's quantified objectives. We believe that such funds constitute some of the resources of a community. Subdivision (c) of section 65583 refers to a community's "utilization of appropriate federal and state financing and subsidy programs when available" to achieve a community's "goals and objectives of the housing element." Numerous other references are made in section 65583 to the possible availability of federal and state grant funds for housing projects (§ 65583, subs. (a)(8)(A), (D), (c)(6)(A)), and related statutes also so reference federal and state housing programs (see, e.g., § 65863.10, subd. (a)(3)). (See *Hoffmaster v. City of San Diego*, supra, 55 Cal.App.4th at p. 1116.)

It is readily apparent from these statutory provisions that federal and state housing funds must be considered among a community's "resources" for purposes of establishing quantified objectives under the terms of section 65583, subdivision (b)(2). When such resources, including local funds, tax or density credits, and affordable housing programs, are not available, the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period may be set at a lower number than the number which would meet the community's total housing needs, including its share of the regional housing needs.

We note, however, that if a lack of federal and state funds is found by a community to be one of the circumstances causing the community to set its quantified objectives below the number representing its total housing needs (§ 65583, subd. (b)(2)), the validity of such determination may be challenged in court by any interested party pursuant to the terms of section 65587. (See *Hoffmaster v. City of San Diego*, *supra*, 55 Cal.App.4th at pp. 1105-1106, 1109-1110.) Moreover, it would not be appropriate to look solely at the unavailability of federal and state housing funds without determining whether other resources were available to meet the community's share of the regional housing needs. (See, *id.* at p. 1110, fn. 8.)

We conclude that a community may establish its maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over the next five-year period below the number of housing units that would meet the community's goal of achieving its share of the regional housing needs established pursuant to the Planning and Zoning Law if the community finds that its available resources in the aggregate, including but not limited to federal and state funds for its housing programs, its own local funds, tax or density credits, and other affordable housing programs, are insufficient to meet those needs.

May 20, 2005 CALIFORNIA

..... FOOTNOTE(S)

FN1. All references hereafter to the Government Code are by section number only.

FN2. A "community" is a city or a county. (§ 65582, subd. (a).)

FN3. Subdivision (a)(3) of section 65863.10 lists the following federal programs:

"(A) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f).

"(B) The following federal programs:

"(i) The Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act (U.S.C. Sec. 17151(d)(3) and (5)).

"(ii) Section 236 of the National Housing Act (12 U.S.C. Sec. 175z-1).

"(iii) Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q).

"(C) Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s).

"(D) Programs under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485).

"(E) Section 42 of the Internal Revenue Code."

FN4. A "council of governments" is a single or multi-county council created by a joint powers agreement. (§ 65582, subd. (b).) For cities and counties without a council of governments, the Department of Housing and Urban Development makes the necessary determinations. (§ 65584, subd. (b).)