
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1050 (Schultz) - Unlawfully restrictive covenants: housing developments: reciprocal easement agreements

Version: July 7, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: JUD. 11 - 2, HOUSING 8 - 2

Mandate: Yes

Consultant: Liah Burnley

Bill Summary: AB 1050 authorizes an individual or entity that wants to develop housing on an existing commercial property, to apply to remove any covenants that restrict the density of the housing that may be built on that property.

Fiscal Impact: Costs (local funds, General Fund) to the counties of an unknown but potentially significant amount. This bill would require county counsel to review and evaluate specified restrictive covenant modification documents, and requires a county recorder to record covenant modification documents upon approval by county counsel. Costs for additional workload imposed on county counsel may be reimbursable by the General Fund if the Commission on State Mandates determines these duties constitute a reimbursable state mandate. Actual costs will depend on the number of requests for modification submitted and the amount of time it takes to evaluate each request. Costs for additional workload to county recorders are likely non-reimbursable because county recorders are authorized to charge fees to offset costs.

Background: Under existing law, a property owner can, upon subdivision of the land, record covenants, conditions, restrictions, or other limitations on how the subdivided land may be used. These restrictions are enforceable, through legal action if necessary, by any of the other owners of the subdivided property.

Restrictive covenants have a shadowy history of discrimination. These covenants were used to prohibit the sale of a property to a person of color, thereby ensuring that a particular neighborhood or area of a city remained inhabited by white residents. Covenants were also used to exclude religious minorities. The United States Supreme Court eventually ruled that such covenants were unenforceable, as they violated the Equal Protection Clause of the Fourteenth Amendment. (*Shelley v. Kramer* (1948) 334 U.S. 1.) Undeterred, developers and neighborhood associations found other ways to subvert the Shelley ruling. Many developers and homeowners associations adopted covenants that restricted the number or size of the residences that may be built on a property, or that restricted the number of persons who may reside on the property. Although race-neutral on their face, these density restrictive covenants had the practical effect of maintaining white, single-family neighborhoods in California's affluent suburban communities. Because density restrictive covenants were enforceable, they were used to block affordable housing developments that had otherwise been approved by a city or county.

To address the negative effects of density restrictive covenants, the Legislature passed AB 721 (Bloom, Chapter 349, Statutes of 2021). Under AB 721, any restrictive covenants on private or publicly owned land that restrict the number or size of the

residences that may be built on the property, or that restrict the number of persons who may reside on the property, are unenforceable if the property will be developed into affordable housing and the owner follows a specified process.

Proposed Law: This bill authorizes an individual or entity that has submitted a permit application to develop an existing commercial property for a project that includes residential uses permitted by state housing laws or local land use and zoning regulations, to submit a covenant modification document to remove language restricting the number, size, or location of the residences that may be built on the property, or that restricts the number of persons or families that may reside on the property. This bill also provides that this authorization shall not be interpreted to authorize any development that is not otherwise consistent with state housing laws.

Related Legislation: AB 1385 (Petrie Norris) authorizes an individual or entity that wants to develop housing on a property located in a county impacted by the January 2025 wildfires, to apply to remove any covenants that restrict the density of the housing that may be built on that property. AB 1385 is pending in this Committee.

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