



AB-2386 Planning and zoning: tenancy in common subject to an exclusive occupancy agreement. (2021-2

As Amends the Law Today

SECTION 1. *Section 65850.10 is added to the Government Code, to read:*

65850.10. *(a) For purposes of this section, the following definitions apply:*

(1) "Design" has the same meaning as in Section 66418.

(2) "Improvement" has the same meaning as in Section 66419.

(3) "Tenancy in common subject to an exclusive occupancy agreement" means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any portion located thereon.

(b) The legislative body of a local agency may regulate by ordinance the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement, including by requiring instruments governing the operation and maintenance of common areas.

(c) Notwithstanding this section, a local agency shall not do either of the following:

(1) Prohibit the ability to hold land by tenancy in common subject to an exclusive occupancy agreement.

(2) Limit the area within a property for which a right to exclusive occupancy may be granted.

(d) This section does not supersede any provision of Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1.

ASSEMBLY BILL 2386 (BLOOM)

TENANCY IN COMMON CONVERSIONS

SUMMARY

AB 2386 allows local governments to close a loophole in real estate purchases that have led to speculator purchases of multi-family housing and the displacement of long-term tenants. The measure allows local agencies to regulate the conversion of multi-family units to tenancy in common developments, ensuring orderly community developments and increasing transparency with the conversion process.

EXISTING LAW

Existing law grants cities the right to regulate conversions of multi-family residential rental properties to common interest developments, such as condominiums, stock cooperatives, community apartment projects and planned developments through the authority vested by the Subdivision Map Act. The Act allows cities to facilitate orderly community development, coordinate planning and assure proper improvements are made.

Existing law also defines common interest developments as projects in which the developer records its intent to create the development. If the developer does not make a formal recordation, the project does not fall within the definition of a common interest development, and as such, is not required to follow the state and local regulations around common interest development formation (e.g. condo conversions).

THE PROBLEM

Tenancy in common is a type of shared ownership in which each person has the exclusive right to occupy their unit and shares ownership rights of the property with two or more people. This type of ownership model is often used by family members residing on the same property. If used for the conversion of duplexes and triplexes, tenancy in common offers a unique and affordable option for homeownership.

THE PROBLEM Cont.

Unfortunately, tenancy in common conversions have been used as a loophole in real estate transactions to effectively turn multi-family housing into condominiums, which in turn encourages speculator purchases and the displacement of long-term tenants. Speculators are targeting existing multi-family properties and advertising the sale of unit ownership to prospective buyers looking to become homeowners in expensive markets. Because the tenancy in common structure is not defined as a common interest development in state law, speculators are not required to adequately disclose the state of the property, the laws protecting existing tenants, and the potential risks with the transaction— protections and guidelines that are typical of condominium conversions.

THE SOLUTION

AB 2386 closes the loophole in state law that has allowed speculators to circumvent state and local laws that regulate common interest development conversions. AB 2386 would not prohibit tenancy in common conversions or limit the area owners would occupy. The measure would simply allow local agencies to create parameters to such conversions, similar to the requirements laid out in the Subdivision Map Act. AB 2386 will ensure speculator purchases do not grow rampant amongst communities with long-term tenants, ensure those interested in buying an interest receive the proper disclosure and protections, and support the orderly development of local communities.

SUPPORT

City of West Hollywood (Sponsor)