

Streamlining Multifamily Housing Production in California

Progress Implementing SB 35

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What is the SB 35 Streamlined Ministerial Approval Process?

- ❖ **Senate Bill 35** (Weiner, 2017) provides a streamlined ministerial approval process for multifamily infill projects in jurisdictions that are not on-track to meet their Regional Housing Needs Allocation (RHNA) goals
- ❖ **Ministerial:** Local public officials can only evaluate projects against objective zoning and design standards. CEQA review is not required.
- ❖ **Streamlined:** Local governments must determine if a project is eligible for SB 35 within 60 days of application submission for smaller projects and 90 days for larger projects (> 150 units). Design review or public oversight must be done within 90 days for smaller projects or 180 days for larger projects.

Source: [HCD's Guidelines for Government Code Section 65913.4, Updated Streamlined Ministerial Approval Process](#)

SB 35 Eligibility & Requirements

- ❖ Multifamily (2+ units) infill projects
- ❖ Must comply with the local objective planning standards (zoning, subdivision, design)
- ❖ Includes a minimum share of affordable units (10% or 50%)
- ❖ Projects subject to labor standards
 - Prevailing wage (> 10 units)
 - Skilled + trained workforce (mixed-income projects)
- ❖ Cannot be in an environmentally sensitive area (as defined)
- ❖ Cannot require demolition of housing rented in the last ten years or historic structures

Source: [HCD's Guidelines for Government Code Section 65913.4, Updated Streamlined Ministerial Approval Process](#)

SB 35 is not the only way to streamline

SB 35 (2017)

By-right approval
and entitlement
streamlining for
multifamily infill

Class 32 Exemption

CEQA exemption
for urban infill
developments

AB 2162 (2018)

By-right approval
and entitlement
streamlining for
supportive
housing

AB 2011 (2022)

By-right approval
for affordable
housing on
commercial lands

Cities and counties may also have
local streamlining options

Data Sources

- ❖ **2018–21 Annual Progress Report (APR)** data on housing development applications submitted and entitlements, as reported by local jurisdictions
- ❖ Interviews with 29 stakeholders: planning staff, developers, land use attorneys, and HCD staff
- ❖ Roundtable discussion with 9 staff members from 7 CHC members

Santa Rosa

Saratoga

Sebastopol

Antioch

Concord

San José

Santa Cruz

Mammoth
Lakes

Fresno

Santa
Barbara
County

LA County

Burbank

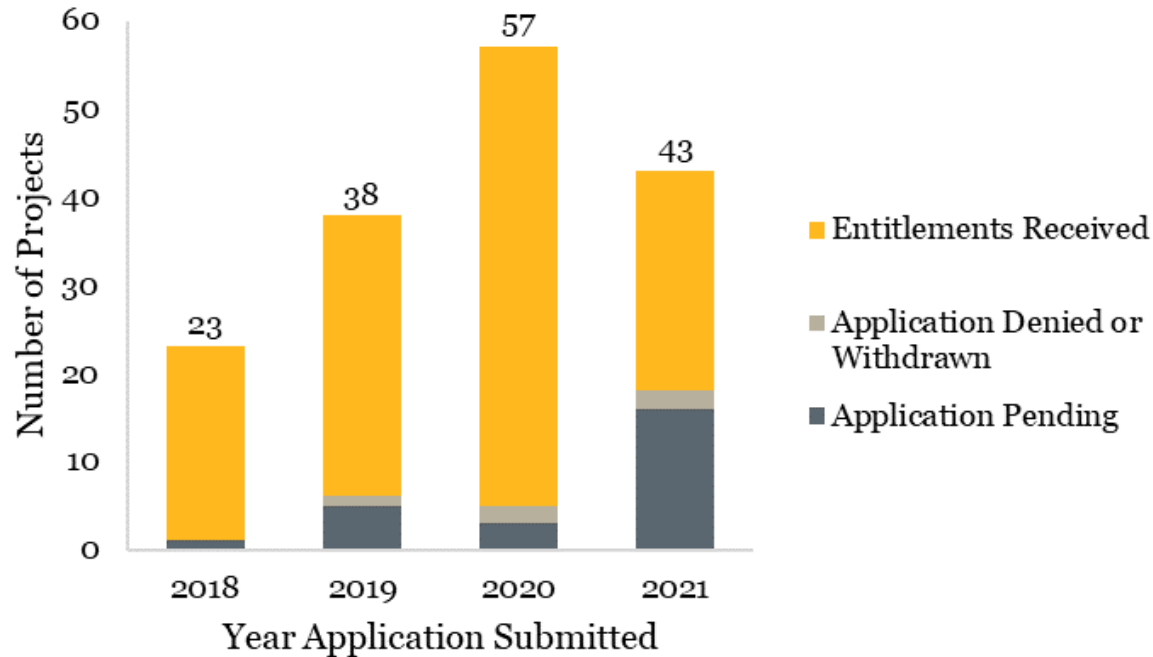
City of LA

Palm Springs

San Diego

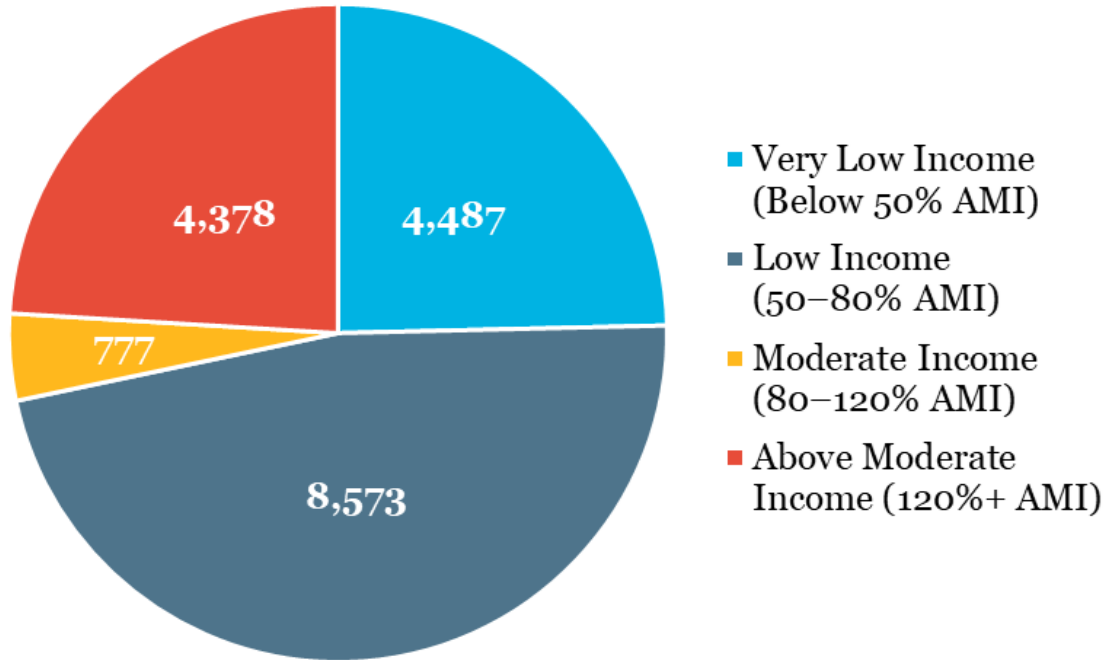
Between 2018 and 2021, 156 projects were approved or pending, comprising over 18,000 new housing units

Proposed SB 35 Projects by the Year of Application and Project Status as of 2021



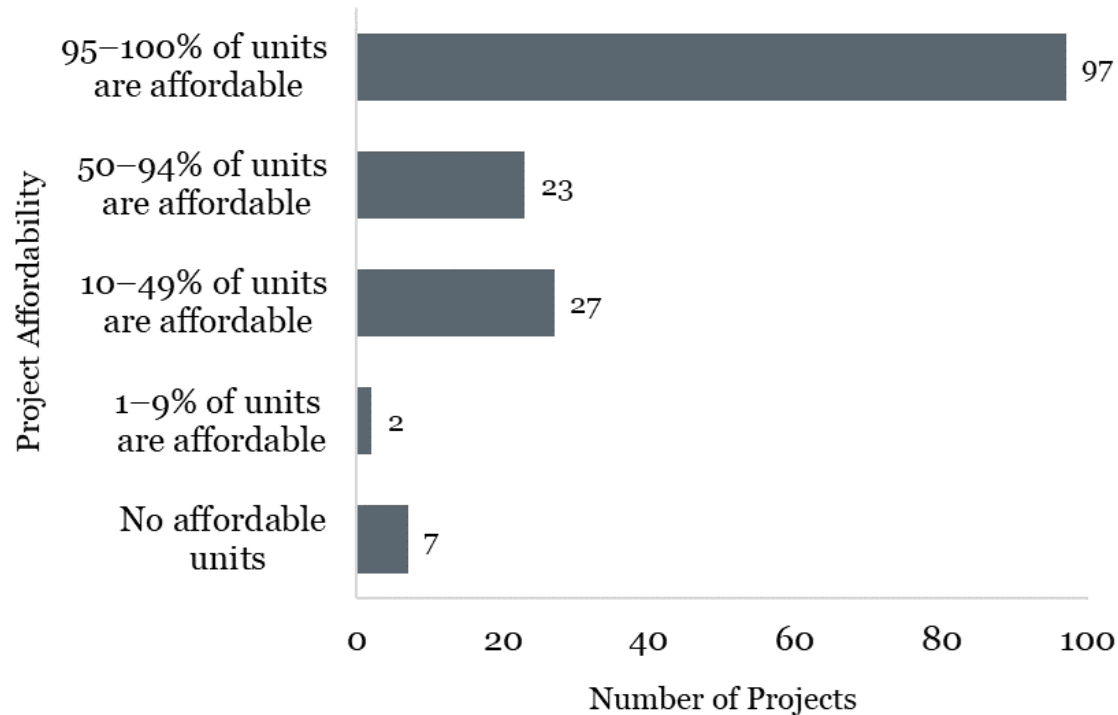
Most SB 35 units are affordable at or below 80% of AMI

Number of Units in SB 35 Projects by Affordability



Most SB 35 projects are 100% affordable

Number of SB 35 Projects by the Share of Affordable Units



The Benefits of SB 35

- ❖ Greater certainty of approval without local discretion
- ❖ CEQA does not apply
- ❖ Faster entitlement timelines

“SB 35 draws a clear box around what a city can specifically request during the entitlement process.”

“there are specific timelines. [Cities] pretty much have to comply with the guardrails of the law.”

SB 35 works best for fully affordable projects

- ❖ Affordable projects often already meet SB 35's labor and affordability requirements (already subject to prevailing wage, exempt from S+T).
- ❖ Faster entitlements let developers apply to earlier rounds of public funding, further accelerating development.

“being able to get ready for the funding round that's been announced or that is anticipated...it saved us two years”

11010 Santa Monica Blvd (LA)

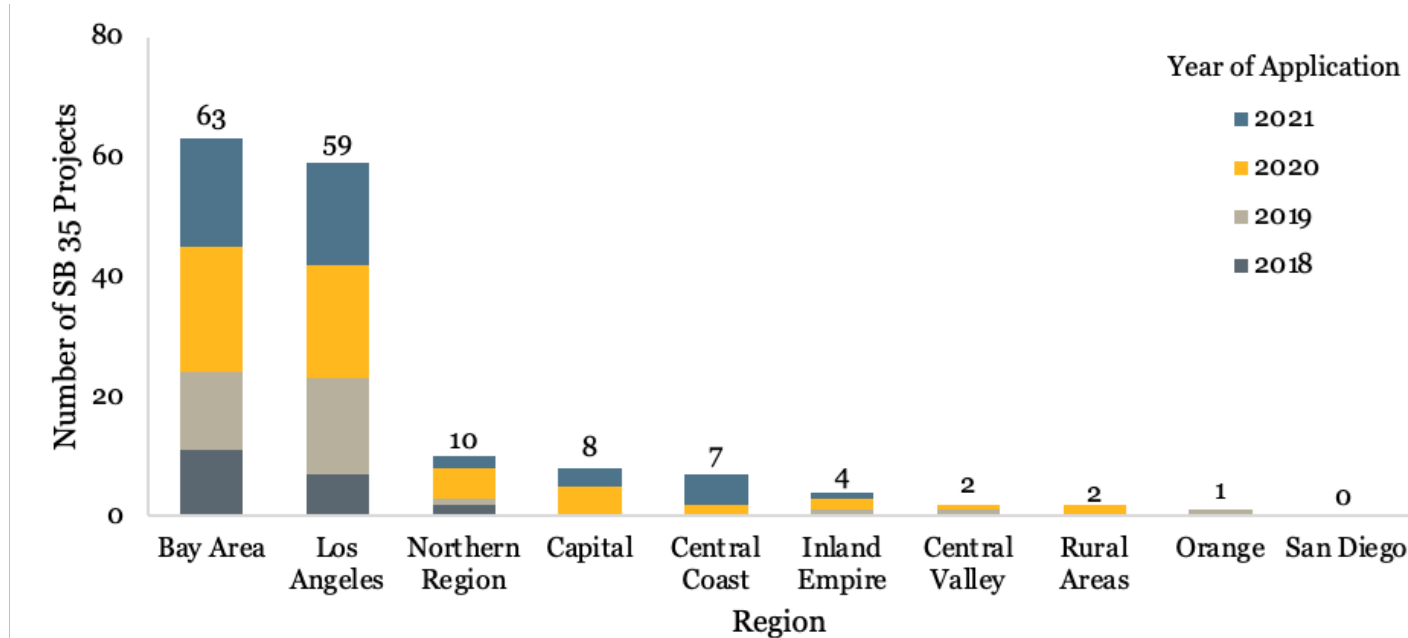


The Kelsey, Civic Center (SF)



Most projects are in the Bay Area and Los Angeles

Number of SB 35 Projects by Region and Year of Application, 2018–2021



Notes: The regions are collections of one or more counties, based on those defined by the California Tax Credit Allocation Committee. The five-county Bay Area includes Alameda, Contra Costa, San Francisco, Santa Clara, and San Mateo counties. Los Angeles includes Los Angeles County and all cities within it.

SB 35's Learning Curve

- ❖ Jurisdictions had to create their own application processes and guidance, and figure out how to apply SB 35 within the context of their existing local codes and processes.
- ❖ Assessing SB 35 eligibility is relatively complex, for example:
 - Navigating many state and federal statutes to confirm projects are not in an environmentally sensitive area
 - Obtaining proof that a structure to be demolished has not been previously rented
- ❖ Many jurisdictions did not have objective standards.

Jurisdictions have alternative streamlining options

- ❖ Local ministerial processes include:
 - Los Angeles County: By-right ministerial approval for multifamily projects in commercial zones (2020)
 - Los Angeles City: Mayor Karen Bass's Executive Directive 1 for affordable housing
 - Fresno: by-right development opportunities for multi-family housing in certain residential and commercial zones
- ❖ Interviewees noted these local streamlining options that come with fewer requirements (i.e. labor) and restrictions (i.e. geographic restrictions)

Pre-application timelines vary greatly

Pre-Application

Pre-applications can include eligibility checklists, supporting documentation, and development meetings with city staff.

Notice of Intent

The first step in HCD's guidelines for an SB 35 application, which triggers the tribal consultation process.

SB 35 Application

The formal SB 35 application submission is the second step in HCD's guidelines, which triggers the required and expedited review and approval timelines.

Tribal Consultation Under SB 35

Developers typically wanted more guidance:

- ❖ Concurrent consultation with pre-application steps?
- ❖ Developer participation in consultation

Jurisdiction has 30 days to notify relevant tribes about proposed development

Tribes have 30 days to accept invitation for consultation

Jurisdiction has another 30 days to initiate the consultation

There is no limit on how long the actual consultation can take.

SB 35 has been used to overcome local resistance to new housing development...



Pickwick Gardens Townhomes, Burbank

Project was initially denied after the city council named itself the design review board. Following settlement of a lawsuit and HCD notice of violation, a modified project was submitted and approved Oct 2022.



The Woodmark Apartments, Sebastopol

Originally pursued the project using the city's traditional entitlement process in 2019 and then pivoted to SB 35 in 2022.

“We had to threaten to go political and notify the papers that the city was working to block farmworker housing.”

... but is mostly being used where local governments support SB 35 and new development

- ❖ SB 35 is working better as a carrot than a stick:
 - Local governments use SB 35 as cover against public opposition
- ❖ Developers do not often use SB 35 where local officials are not supportive
 - Preserving relationship with local government
 - Concerns about local funding access

Recommendations

- ❖ Improve data collection and continue to monitor and evaluate the use of SB 35 streamlining across the state
- ❖ Support local implementation through additional guidance from HCD and statutory amendments. For ex:
 - HCD could create and maintain a resource that maps SB 35 exclusion areas
 - Further clarification and modification to SB 35 with respect to pre-applications, the role of public oversight and hearings, etc.
- ❖ Consider re-calibrating the law's requirements to encourage greater usability of SB 35 for mixed-income housing developments, seeking balance and alignment between housing affordability, labor, and climate goals

Questions? Contact us below:

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