Reforming Impact Fees to Support Housing Affordability: A Case Study of Four Inland California Cities

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REFORMING IMPACT FEES TO SUPPORT HOUSING AFFORDABILITY: A CASE STUDY OF FOUR INLAND CALIFORNIA CITIES

DR. JEFFREY A. MICHAEL & STEVEN S. MCCARTY*

ABSTRACT

California’s housing affordability crisis continues to grow, including within inland areas traditionally known as affordable alternatives to coastal cities. Developers in inland regions find it difficult to cover high fixed costs with smaller, more affordable housing units. Recognizing the influence of local impact fees on housing development, Assembly Bill 879 (“AB 879”) in 2017 required the California Department of Housing and Community Development (“HCD”) to complete a study evaluating such fees. Extending from that study, this manuscript uses a case study of the regulatory fee structure of four inland California cities to evaluate the potential of changes to state law and local regulatory policies.

In this study, we evaluate three specific policy options. First, we evaluate the potential effects of AB 1924 (2020) and AB 602 (2021), laws that would require or encourage fees to be calculated on a per square foot rather than a per unit basis. Second, we examine proposals to cap impact fees, as illustrated by AB 3145 (2020) and AB 678 (2021). Third, we look at the potential for eliminating unnecessary, excessive, or ineffective fees, including through tightening the standards for fee justification, as proposed in legislation like AB 602 (2021) and through incentives like those proposed by AB 2186 (2022). This analysis calls for the adoption of a mandatory square footage multiplier. We find the other

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options—fee caps, tightened regulations requiring more transparency and accountability in impact fee nexus studies, and affordable housing fee reimbursement—have potential but risk unintended consequences that should be considered in policy design and implementation.

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INTRODUCTION

California’s high housing costs are driving severe social problems. Approximately 150,000 Californians are experiencing homelessness—the highest homeless population in the nation—and more than one in six Californians live in poverty due to high living costs.1 Furthermore, as the crisis continues to worsen, high home prices are now blocking out even portions of middle-class and high-income Californians from home ownership.2

The low production of new housing units, such that the supply of housing has not kept pace with growing demand, remains a critical driver of this housing crisis.3 In addition to a low number of units produced, the new units being constructed in low-to-moderate income inland cities have tended to be large, expensive single-family homes.4 The low supply of housing skewed towards expensive single-family homes is often blamed on the state’s regulatory climate, including restrictive zoning laws and high impact fees imposed by local governments on new developments.5 The most influential recent analyses of impact fees focused on larger California cities, which face different market conditions than smaller cities in inland California.6 Further, in recent years, high impact fees have been a focus of some of

2. Id.
the housing bills in the state legislature aimed at stimulating new housing supply. These individual bills would make specific changes to how local governments can implement fees. However, there is little analysis on their potential impact in less expensive inland cities, as well as how the proposed laws might interact with each other if passed. This Article expands previous analyses by using case studies of overlooked markets, along with an analysis of the potential impact of proposed and enacted legislation on those markets.

I. CALIFORNIA’S AFFORDABILITY CRISIS

The high cost of housing is most obvious in coastal metro areas. According to the National Association of Realtors, of the four metropolitan areas in the United States with a median home sales price over $1 million in 2023, the top three are in California (San Jose, San Francisco, and Orange). Other California metropolitan areas (San Diego, Salinas, Oxnard-Thousand Oaks-Ventura, San Luis Obispo-Paso Robles, and Los Angeles) rank fifth, sixth, seventh, eighth, and twelfth among metropolitan areas in the United States, with median home prices over $789,000. The rental market shows similar data. Apartment List data shows California coastal metros make up five of the six highest average rents for U.S. metropolitan areas. Looking at government rent data, three counties in the San Francisco Bay Area top the U.S. Department of Housing and Urban Development’s fair market rent estimates at over $3,000 for a modest 2-bedroom apartment.

9. Id. (providing data regarding median home prices in metropolitan areas).
10. Id.
Inland California areas seem affordable compared to coastal cities, but most inland areas also have housing costs that exceed the national average. In fact, relative to local incomes, housing affordability in these inland markets is as bad as in coastal California markets. U.S. Census Bureau data shows that 54.2% of California renter households spend more than 30% of their household income on housing compared to 49.4% of renter households in the U.S. In less expensive inland counties, such as Riverside, San Bernadino, and San Joaquin, the percentages of cost-burdened renter households is 58.9%, 56.8%, and 53.8%, respectively—higher than many coastal areas. For owner households, the differences between California and the rest of the U.S. are even larger, with 37.8% of California households with a mortgage spending over 30% of their income on housing, compared to 27.2% of owner households in the U.S. Remarkably, there is little difference in these cost-burdens between coastal and inland California, despite large differences in median home prices. These cost-burden comparisons understate the issue as Californians are less likely to be homeowners due to these costs. Barely more than half of California households own their own home, which represents the third lowest home-ownership rate in the nation and the lowest in California since World War II.

Housing affordability is a major contributor to the state’s growing homelessness crisis. Like housing cost burdens, homelessness is an

14. See id. (calculations made using U.S. Census Bureau American Community Survey data).
17. Id.
18. Id.
19. See Californians and the Housing Crisis, supra note 15.
20. Tobias, supra note 5.
issue in both inland and coastal California. According to the U.S. Housing and Urban Development Department, California leads the nation in homelessness and has the highest unsheltered homeless rate in the country. Often associated with the state’s largest cities, homelessness is as high or higher in inland cities. In 2022, Sacramento County’s portion of California’s homeless population exceeded those of San Francisco and San Diego counties, despite having half the population of San Diego. As a percentage of overall population, Southern California inland counties, such as San Bernadino and Riverside, have homeless populations similar to higher-cost San Diego.

As average incomes are lower in California’s inland markets, one might expect new housing developments to focus on smaller single-family homes and multi-family developments that better fit local family budgets. Instead, new construction has been focused on large, single-family homes. For example, the fast-growing but relatively low-income city of Stockton has seen virtually zero new multi-family development since the 1980s. When lending standards were lax during the early to mid-2000s, sales and production of these large single-family homes increased rapidly in inland cities as more families were able to obtain financing. However, the foreclosure crisis that

22. Id. at 4.
25. Id.
26. de Sousa et al., supra note 23 at 21 (providing data for calculations regarding county-level homeless populations).
27. CAL. DEP’T OF FIN. CENSUS DATA CTR., supra note 13.
28. See CIRB (CONSTRUCTION INDUSTRY RESEARCH BOARD), Permit Data (On file with Journal).
followed devastated inland California. As the economy has recovered, construction activity has resumed, and state policy has emphasized infill and transit-oriented development. Yet inland cities remain dominated by large single-family construction, even as multi-family development has seen a resurgence in coastal California.

Given high construction costs, multi-family development in inland markets is only financially feasible at rents above what most local incomes can afford. As a result, there has been very little new market-rate multi-family housing development. After decades of no new market-rate apartment development, despite significant population growth, a few small apartment complexes have recently been completed in our case study cities. Most of these new developments are in Tracy, starting at over $2,000 per month for a one-bedroom unit and $2,500 per month for a two-bedroom unit. In Stockton, the first new market-rate apartment development in decades starts at $1,400 per month for a one-bedroom unit. It appears that developers did not consider apartment development profitable until rents exceeded $2 per square foot, a level which is not affordable for most workers at the warehouses that dominate the local employment market.

31. Id.
33. CIRB, supra note 28.
36. Bob Highfill, Construction Picking Up: Stonebrier Will Feature 156 One- and Two-bedroom Apartments, STOCKTON REC. (July 23, 2019), https://www.recordnet.com/story/business/2019/07/24/construction-picking-up/4624954007/ (showing that development costs for Stonebrier apartments were $232,000 per unit, 277% more than when the same developer built comparable apartments next door for $83,000 per unit in 2003).
37. Amazon and other large distribution centers typically pay $18 per hour, for which $936 per month is affordable rent using a 30% of income affordability standard. See, e.g., Jeffrey Dastin, Amazon hikes average U.S. starting pay to $18, hires for
Looking at new home developments, the least expensive new homes are about $500,000 for 1,500 square feet, and that only two of seventy-eight new home communities in the county advertise a house with a base price of $500,000 or less.\textsuperscript{38} Even the least-expensive new homes come with significant additional fixed fees on their property tax bills to cover expenses for neighborhood-specific development costs. The base price of the smallest home in all new neighborhoods exceeded $300 per square foot, and typical base prices only increase by $100-$150 with each additional square foot, which reflects high fixed costs such as land, infrastructure and fees for each unit.\textsuperscript{39} Thus, even most modest new homes in our case study cities would likely require $150,000 in household income to purchase, about double the median family income in these cities.

The data suggests that financial feasibility and high fixed costs are a major reason why construction has lagged and has trended in the direction of larger, more expensive housing units. While there are many components of the fixed costs of development, the so-called soft costs of complying with government regulations, including impact fees, are a significant factor. It is the place where local government policies can have the greatest impact to stimulate more production by making projects financially feasible and thereby incentivizing the production of less expensive units attainable to lower and middle-income households. Thus, the analysis in this Article focuses specifically on the role of impact fees and various proposals for their reform.

\textbf{A. The Role of Impact Fees}

Development impact fees are one-time fees charged by local governments to cover the cost of new infrastructure and other government costs attributed to new development. Impact fees in California are substantially higher than any other state. Duncan Associates, a national impact fee consulting firm, has consistently

\textsuperscript{38} These findings are based on a study completed by the authors. \textit{See NEWHOMESOURCE,} \url{https://www.newhomesource.com/communities/ca/stockton-lodi-area/san-joaquin-county} (last visited Nov. 22, 2023).

\textsuperscript{39} \textit{Id.}
found California’s average impact fees to be more than double the second-highest state and four times the national average.\footnote{40}{Duncan Associates is a national impact fee consulting firm that has conducted surveys since 2003. \textit{DUNCAN ASSOCIATES, National Impact Fee Survey, 2003-2019}, http://www.impactfees.com/resources/surveys/ (last visited Mar. 17, 2023).} Given how much higher fees are in California, it is natural to assume that these fees contribute to higher housing prices or lower development. Conversely, according to the economic theory of tax incidence,\footnote{41}{\textsc{ScienceDirect, Tax Incidence}, https://www.sciencedirect.com/topics/economics-econometrics-and-finance/tax-incidence (last visited Apr. 7, 2023).} it is not clear that impact fees would translate directly to higher consumer housing costs. Increased costs from these fees could fall on the supply side of the market through lower developer profits or lower land values, especially in locations with high land values, where regulations or challenging geographies limit the number of developable sites. Alternatively, some empirical studies suggest that the cost of impact fees may be passed onto housing buyers.\footnote{42}{\textit{Douglas Campbell & James Alm, Are Impact Fees a Deterrent to Development?}, 99\textsuperscript{th} ANNUAL CONFERENCE ON TAXATION (2006), https://www.ntanet.org/wp-content/uploads/proceedings/2006/024-campbell-are-impact-fees-2006-nta-proceedings.pdf (last visited Sept. 20, 2023).} Many studies have found that impact fees increase housing prices by more than the amount of the fees.\footnote{43}{Id.} In addition, there is some uncertainty as to whether impact fees reduce the total amount of development.\footnote{44}{Id.} Impact fees can generate significant revenue for local governments, and they may be more likely to approve development proposals as a result. Nonetheless, if the higher costs reduce affordability, they limit the number of prospective buyers.

These questions about how impact fees drive the overall cost and level of development are important, but our focus in this analysis is how impact fees shape the type of development. This Article argues that high impact fees (especially when in the form of a fixed cost per unit) encourage the development of larger, more expensive housing in lieu of smaller, more accessible dwellings that are viable for moderate and low-income households. This Article explores how proposed legislation that would change fee implementation could
affect the economics of housing development and potentially incentivize more moderately priced and affordable housing.

B. California Impact Fee Studies

Over the years, there have been many surveys of building fees in local areas of California, often conducted on behalf of local building or economic development organizations. While useful for gathering information on local markets, the methods and models of these surveys vary to the point of making them generally not very comparable and of limited analytical value. The models we use in this study build on a regional effort by the San Joaquin Partnership using a consistent model to estimate fees on five occasions over the past twenty years. This provides us with a useful time series and a basis to validate our empirical models. While broad statewide surveys with significant policy analysis are less common, there are two very notable statewide efforts worth discussion.

In 2001, produced by a team of researchers at the Institute of Urban and Regional Development at the University of California, Berkeley, the California Department of Housing and Community Development published “Pay to Play: Residential Development Fees in California Cities and Counties, 1999.” Their survey of fees encompassed eighty-nine communities across the state to find typical fees for new subdivisions, infill, and apartment buildings. They found a statewide average of $24,325 per home for new residential developments, and $15,531 per apartment unit, with apartment fees significantly higher when compared on a per square foot basis. Fees were lowest in the


46. See, e.g., SAN JOAQUIN P’SHIP, REGIONAL DEVELOPMENT FEES COMPARATIVE ANALYSIS (Mar. 2013).


48. Id.
San Joaquin Valley, but still averaged over $18,000 per home in 1999. Significant to this study, the report also concluded that “[t]he contribution of fees to home prices is greatest in affordable markets.”\(^49\) The study found that development fees accounted for 15% of home price in more affordable markets, compared to about 10% statewide.\(^50\)

The Pay to Play report also made policy recommendations, including calls for better customer service from fee administering agencies through streamlined processing, more transparency, and advance fee-estimating services.\(^51\) With respect to fee-setting processes, the report recommended that more jurisdictions engage in long-term capital planning, and that the state should reduce the vagueness in mitigation fee guidelines so that fees are more rigorously justified.\(^52\) Finally, the report addressed the problem of fees having the largest cost impact in fast-growing, affordable communities through state fiscal incentives, such as providing financial incentives to reduce or waive fees for affordable housing and shifting state sales tax revenue to communities that reduce fees.\(^53\)

Seventeen years after the “Pay to Play” report, the Terner Center for Housing Innovation at UC Berkeley produced another comprehensive study for the California HCD, “It All Adds Up: The Cost of Housing Development Impact Fees in Seven California Cities.”\(^54\) The study showed that California’s development fees have continued to drastically outpace the rest of the United States for the last fifteen years.\(^55\) While this review of seven cities is much less comprehensive than the earlier HCD study, the report goes into considerable detail about the process and complexity of fees.\(^56\) Despite the small sample of cities, the study finds considerable variation with public facility fees alone, totaling about $150,000 per single family

\(^{49}\) Id. at 3.
\(^{50}\) Id.
\(^{51}\) Id. at 4.
\(^{52}\) Id. at 5.
\(^{53}\) CAL. DEP’T OF HOUS. AND CMTY. DEV., supra note 47.
\(^{54}\) See id.; Mawhorter et al., supra note 6, at 5.
\(^{55}\) Mawhorter et al., supra note 6, at 5.
\(^{56}\) Id. at 6–9.
home in Fremont and Irvine, as compared to less than $50,000 in Sacramento and Los Angeles.57

Most of the conclusions and recommendations of the Terner Center’s “It All Adds Up” report focus on the complexity and lack of transparency of fees, timing of payment, and more objective standards for fees, echoing the recommendations from twenty years earlier.58 The report offers specific recommendations to encourage waiving of affordable housing fees and shifting fees to a per unit or a per square foot basis.59 The report includes findings from extensive interviews which directly address how development can be impacted by these fees: “[s]pecifically, architects and builders that we interviewed noted that they will sometimes increase the sizes but reduce the total number of units in a project to avoid paying higher per-unit fees.”60

In 2019, the Terner Center followed up with another study: “Residential Impact Fees in California: Current Practices and Policy Considerations to Improve Implementation of Fees Governed by the Mitigation Fee Act.”61 This report was a more comprehensive review, looking at forty cities with ten in-depth case studies, recommending more specific changes than in previous reports.62 The recommendations include many new requirements for cities with respect to transparency of fees and fee structure.63 They recommended requiring cities to consider alternative multipliers for fees, such as per square foot instead of per unit, and stronger requirements for nexus studies to justify fees.64 As shown later, this report has directly influenced several proposed fee reform bills.65

57. Id. at 20.
58. Id. at 23–25.
59. Id. at 24–25.
60. Id. at 23.
62. Id.
63. Id. at 30–31.
64. Id. at 38.
65. See infra II.A and II.C.
C. Composition and Trends for Fees in Four Case Study Cities

Our case studies focus on four inland cities in the North San Joaquin Valley, a region that is one of the fastest growing in California and is increasingly influenced by the San Francisco Bay Area market. Stockton (population 319,731) and Modesto (population 216,995) are medium to large cities developed with an industrial base built around agricultural processing and logistics. Tracy (population 97,328) and Manteca (population 86,928) are fast-growing, smaller suburban cities closer to the San Francisco Bay Area. This makes them particularly popular with commuters seeking lower housing costs and the large e-commerce fueled distribution centers. The region’s housing market has similarities to the fast-growing Inland Empire in Southern California, and it is important to contrast these markets against those in the Terner Center report.

For each city, detailed fee schedules were reviewed for 2020 and checked them against actual invoices and receipts for paid fees to determine accuracy of our models. In order to generate a consistent time series for each city, we used the same prototypical developments analyzed by the San Joaquin Partnerships in previous assessments of


69. See CAL. DEP’T OF FIN., supra note 13; see also, e.g., CITY OF TRACY, Tracy, California Fact Sheet, https://www.cityoftracy.org/home/showpublisheddocument/15024/638138707739800000 (last visited Aug. 31, 2023).
development fees.70 The prototypical multi-family development consisted of a 900 square foot unit, and the prototypical single-family development consisted of a 1,500 square foot unit.71 In this section, this Article describe the composition and trends in fees for these prototypical developments. This Article then uses models to analyze the potential impact of proposed policy reforms.

The fees in each city fall within five categories: (1) Planning Fees (e.g., inspections, permits, processing); (2) City Public Facilities Fees (e.g., air quality, animal services, health, library, parks, fire, police, agricultural land mitigation, recreation, transportation); (3) County Public Facilities Fees (e.g., habitat mitigation, regional transportation); (4) School Fees; and (5) Utilities (e.g., water, wastewater, sewer, storm drain).72

In three case study cities, City Public Facilities Fees (PFF) comprised the largest portion of the fees, and utility fees represented the second largest share.73 In Tracy, utility fees were the largest, followed by City PFF.74 County PFF comprised the third largest portion of single-family and multi-family fees in all four cities, ranging between 10% and 18% of total fees.75 School fees provided the fourth largest portion of total fees in all four cities at between 9% and 12% of total development fees.76 Planning fees were the smallest contributor to costs in all cities and ranged from 6% to 10% of costs.77 The impact of utility fees (particularly water and wastewater connection fees) on construction costs in these inland cities is important to note because these types of fees are often overlooked by policy proposals, which tend to instead focus on PFF.78

70. SAN JOAQUIN P’SHP, supra note 46.
71. See id. at 12-17, 31-35;
72. See id. at 13 (noting the breakdown of development fee categories).
73. Dr. Jeffrey A. Michael & Steven S. McCarty, calculations based on personal research which utilizes applicable fee schedules of each city, county, and special district [hereinafter Author Data & Calculations] (On file with Journal).
74. Id.
75. Id.
76. Id.
77. Id.
78. Id.
The study found that fees for multi-family and single-family developments increased substantially between 2003 and 2020, with the largest increases in Stockton between 2003 and 2007. Indeed, for a prototypical single-family development, fees increased by 95% for Manteca, 45% for Modesto, 154% for Stockton, and 64% for Tracy between 2003 and 2020. Similarly, for a prototypical multi-family development, fees increased by 82% for Manteca, 56% for Modesto, 167% for Stockton, and 31% for Tracy between 2003 and 2020.

As shown in Figure 1, Tracy has the highest development fees for our prototypical 1,500 square foot unit, totaling over $70,000 in 2020. In 2003, Stockton had relatively low fees; yet these increased rapidly between 2003 and 2007 when new residential development boomed in the area just prior to the 2008 recession. Since 2007, single-family fees in Stockton have levelled off, but are still nearly $60,000. Manteca also had comparatively low fees historically, but recently experienced a dramatic increase from under $40,000 to over

Figure 1: Manteca, Modesto, Stockton, and Tracy Single Family Development Fee Comparison (2003-2020)

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79. Id.
80. Id.
81. Id.
82. Id.
83. See Figure 1, supra note 80; Author Data & Calculations, supra note 71.
84. See Figure 1, supra note 80; Author Data & Calculations, supra note 71.
85. See Figure 1, supra note 80; Author Data & Calculations, supra note 71.
$55,000 for a prototypical house. Modesto’s fees actually decreased after the housing market crash, and the city has the lowest fees in our study area.

Figure 2 shows trends in fees for our prototypical multi-family unit. In 2020, typical fees were just over $30,000 per unit in our case study areas. Tracy currently has the highest fees at just under $40,000 per apartment. Multi-family fees have fallen significantly in Stockton and Modesto since 2012. In Modesto, the fees for an apartment were almost identical to a much larger single-family home in 2012, but they had fallen below $30,000 in 2020.

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86. See Figure 1, supra note 80; Author Data & Calculations, supra note 71.
87. See Figure 1, supra note 80; Author Data & Calculations, supra note 71.
88. See Figure 2, infra note 93; Author Data & Calculations, supra note 71.
89. See Figure 2, infra note 93; Author Data & Calculations, supra note 71.
90. See Figure 2, infra note 93; Author Data & Calculations, supra note 71.
91. See Figure 2, infra note 93; Author Data & Calculations, supra note 71.
92. See Figure 2, infra note 93; Author Data & Calculations, supra note 71.
93. Author Data & Calculations, supra note 71.
II. ANALYSIS OF RECENT AND PROPOSED STATE LEGISLATION ON IMPACT FEES

This section provides an evaluation of policy options related to housing development impact fees, including statewide legislation regarding alternative fee multipliers (AB 1924, AB 602); a cap on fees (AB 3145, AB 678); a higher standard for justification of fees (AB 602); and fee deferrals, reductions, reimbursements, and waivers, including related cost sharing incentives (AB 2186, AB 2722). In addition to considering the individual impact of these bills, it is important to consider how they may interact with one another to generate unintended consequences. For example, switching from per-unit fees to a square foot fee multiplier has implications for fee caps and proposals to provide financial incentives to cities that implement fee waivers. Thus, these recommendations and conclusions are made in the context of comprehensive reforms.

94. Although beyond the scope of this article’s focus on recent proposals, disputes related to these fees as well as considerations of housing development and land use decisions more broadly, may also benefit from environmental and public policy mediation under longstanding law. See, e.g., CAL. GOV’T CODE §§ 66000.5, 65404, 66030-66035 (West 2023). Future research and policy efforts should consider implementation of environmental and public policy mediation, especially in today’s polarized political environment. See, e.g., Susan L. Podziba, Conflict, Negotiation, and Public Policy Mediation in the Trump Era, 35 NEGOT. J. 177, 177–80 (2019). Despite some promising results and learned best practices, this option appears underutilized, underfunded, and not widely institutionalized in local governments, aside from ad hoc usages and an early attempt by the Southern California Association of Governments (SCAG) to institutionalize such mediation in the 1990s. See, e.g., Alana Knaster & Gregory L. Ogden, Public Sector Dispute Resolution in Local Governments: Lessons from the SCAG Project, 1 PEPP. DISP. RESOL. L.J. 177, 178–79, 216–17 (2001). There are also isolated instances of institutionalized mediation outside of California. See, e.g., Alana Knaster, Resolving Conflicts over Climate Change Solutions: Making the Case for Mediation, 10 PEPP. DISP. RESOL. L.J. 465, 488–89 (2010); THE ROCKY MOUNTAIN LAND INST., Getting Past No: Strategies for Resolving Land Use Disputes (2006), https://www.law.du.edu/images/uploads/rmlui/publications-GettingPastNo.pdf. For now, this article focuses on proposals under recent California bills. See, e.g., Richard M. Cartier, Mediating Local Intergovernmental Disputes—Reflections on the Process, 13 SAN JOAQUIN AGRIC. L. REV. 1, 3 (2003).
A. Fee Calculation Methods

Local authorities often calculate the fees associated with a particular development by multiplying a set fee amount by some characteristic of the development (e.g., number of bedrooms, number of units, or square footage). In California overall, as in the four cities highlighted above, calculating fees on a per-unit basis appears most common.95 Although some fees, such as utilities fees, use a different multiplier (e.g., water meter size) to best reflect the impact of the development, jurisdictions often use the same multiplier for as many fees as practical in order to ease administration of the fee program, which further intensifies the impact of the selection.96

Calculating fees on a per-unit basis or on a per-bedroom basis incentivizes larger units rather than more units.97 In this way, the fee multiplier selected by a locality impacts development decisions and the overall production of affordable housing units required to meet the needs of California residents. State law provides some flexibility for local governments to select a fee multiplier justified by a nexus study, demonstrating the reasonable relationship between development projects and fees, to address impacts on the locality’s public facilities and services.98

One option appearing in previously proposed state legislation, including AB 1924 in 2020, involves changing the employed fee multiplier when calculating the amount of fees for a housing development. Indeed, the Terner Center recommends that “[c]ities should also review the metrics on which they base their fees, whether by units, bedrooms, square footage, or other measures, and adjust to avoid adverse incentives.”99 The requirement outlined in AB 1924 went beyond the Terner Center’s recommendation to local governments and proposed that a “fee levied or imposed on a housing development

95. Mawhorter et al., supra note 6.
96. Raetz et al., supra note 61, at 38.
97. Mawhorter et al., supra note 6, at 23.
99. Mawhorter et al., supra note 6, at 24.
While falling short of AB 1924’s mandate, the state legislature subsequently proposed and passed AB 602 in 2021, which provides that a “local agency that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.”

Although AB 1924’s requirement to utilize square footage as a multiplier for development impact fees was not mandated, AB 602 may incentivize local governments to calculate development impact fees based on projects’ square footage. This is due to the inclusion of a provision which upholds square footage multipliers as a valid, default method for impact fee nexus studies—an essential prerequisite before adopting a local development fee. Still, the law allows local governments to assign different methods of fee calculation depending on the type of development (e.g., single family or multi-family). Additionally, it allows local governments to avoid using square footage if they make findings regarding all of the following:

(i) an explanation as to why square footage is not appropriate metric to calculate fees imposed on housing development project;
(ii) an explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden posed by the development; and
(iii) that other policies in the fee structure support smaller developments, or otherwise ensure that smaller developments are not charged disproportionate fees.

Thus, although AB 602 provides some incentive for adopting square footage as a multiplier in some cases, it falls short of requiring it in every case. Even if local governments ultimately decide to adopt square footage as the multiplier for all types of housing developments instead of providing findings to utilize another multiplier, the law

102. CAL. GOV’T CODE § 66016.5(a)(5) (West 2022).
permits them to wait for up to eight years since their last impact fee nexus study. Further, legal analyses demonstrate that:

AB 602 does not affect the City’s ability to impose water or sewer connection fees or capacity charges under Government Code section 66013, nor does it apply to any exactions, including taxes, [school fees], public art fees or in-lieu payment requirements, Mello-Roos special taxes, and parkland in-lieu fees or dedication requirements such as Quimby Fees.

Still, AB 602 does apply to PFF that, more often than not, comprise the largest fee in the prototypical developments analyzed above.

B. Findings and Recommendation: Selecting a Per-Square-Foot Fee Multiplier

Proposals to adopt a square footage basis often seek to incentivize the development of additional smaller units, including more multi-family developments, to help increase the supply of affordable housing. Indeed, Sacramento planners stated that their switch to calculating many fees on a square footage basis reflects an interest in reducing the cost of denser residential developments, including townhomes and multi-family developments. Similarly, Los Angeles planners calculate fees on a square footage basis in order to promote more affordable, denser housing development, including micro-units.

103. CAL. GOV’T CODE § 66016.5(a)(8) (West 2022).
106. Mawhorter et al., supra note 6.
107. Id.
108. Raetz, supra note 61.
An analysis of the impact of implementing a similar change on the prototypical developments within Manteca, Modesto, Stockton, and Tracy, demonstrates that adopting the default, valid method for impact fee nexus studies, by selecting a per-square-foot fee multiplier, will likely incentivize denser developments. This, in turn, is expected to make more of an impact on meeting housing needs. Indeed, for Model 1, a 1,500 square-foot prototypical single-family housing development, calculating fees on a square-footage basis, results in an approximately 18.27% decrease in fees in Stockton, a 20.65% decrease in fees in Modesto, a 14.47% decrease in fees in Tracy, and an 18.33% decrease in fees in Manteca.109 The percentage decrease declines as the size of the unit increases in the model, which confirms the suggestion that calculating fees on a square footage basis incentivizes production of smaller units.

In Model 2, a 2,050 square-foot prototypical single-family housing development realizes less than half of the percentage decreases realized in Model 1.110 When calculating on a square footage basis, Model 2 realized an approximately 8.16% decrease in fees in Stockton, a 9.37% decrease in Modesto, a 6.35% decrease in Tracy, and an 8.02% decrease in Manteca.111 The savings from calculating on a square footage basis disappear for developers of the 2,500 square foot Model 3, and developers of the largest prototypical single-family development, Model 4, realize an increase in fees.112 Regarding Model 4, fees for a 3,500 square-foot prototypical single-family housing development increase by approximately 16 percent in Stockton, by 18.75% in Modesto, by 12.47% in Tracy, and by 15.46% in Manteca when calculated on a square footage basis.113 Thus, calculating fees on a square footage basis will potentially lead to smaller single-family housing developments.

These results also hold true for multi-family developments. Similar to the single-family housing model, the multi-family housing model demonstrates that development fees decrease for smaller multi-family units when calculated on a square footage basis. For the smallest

109. Author Data & Calculations, supra note 71.
110. Id.
111. Id.
112. Id.
113. Id.
prototypical development, a development with 500 square-foot units in Model 3a, fees go down by approximately 23.61% in Stockton, 24.41% in Modesto, 11.5% in Tracy, and 20.17% in Manteca, when calculated on a square footage basis. Moving up to 750 square feet units in Model 3b, the savings for developers decrease drastically to a small fraction of the savings realized in Model 3a. Indeed, in Model 3b, Stockton posts an approximately 3.78% decrease in fees, Modesto realizes a 3.93% decrease, Tracy achieves a 1.64% decrease, and Manteca attains a 3.31% decrease, when utilizing square footage as the basis for calculating fees. Fees increase when calculated on a square footage basis for all other models including the following: the 850 square-foot prototypical multi-family housing development units in Model 2, the 900 square-foot units in Model 1, the 1,000 square-foot units in Model 3c, and the 1,200 square-foot units in Model 3d. This pattern persists when calculating multi-family housing development fees by building. Utilizing two prototypical buildings for the second multi-family housing model, when calculated on a square footage basis, the fees similarly increase as the building size increases; however, the overall fees increased for both multi-family housing buildings when calculating fees on a square footage basis utilizing the square footage of the building as a whole as well as a calculation based on the individual units.

Thus, similar to the single-family housing model, the multi-family housing models suggest that calculating fees on a unit square footage basis, as incentivized with AB 602, will encourage the development of more, smaller multi-family housing units. Further, the models suggest that calculating fees on a building square footage basis will incentivize smaller multi-family buildings.

C. Fee Caps

In addition to evaluating the fee multiplier used to calculate fees, the Terner Center recognized that “[t]he state could cap impact fees
based on a set formula.” Currently, individual agencies often set fees for specific purposes without regard to other fees, which can contribute to high fee burdens. A fee cap may prompt agencies to consider the total amount of fees being imposed and not just their individual fee, fostering greater cooperation and coordination among agencies to keep total fees within a set limit.

Related to capping fees, bills, such as AB 3145 in 2020 and AB 678 in 2021, proposed to cap the amount of fees levied on residential development. Specifically, AB 678 proposed that, normally, “a city or county shall not impose a fee or an exaction if the total dollar amount of the fees and exactions that a city or county would impose on a proposed housing development is greater than 12% of that city or county’s median home price.”

Thus, unless otherwise approved by the Department of Housing and Community Development, such legislation proposed to effectively cap housing development fees at 12% of the local median home price, allowing for some variation across the state. While this approach allows for such variation, the Terner Center noted that “fee caps ignore the variation in how cities pay for infrastructure and may be too blunt an instrument.” Indeed, costs vary across the state by more than just median home prices, and such fees can comprise as much as a third of a local authority’s budget. In addition, median home prices in California are notoriously volatile, creating uncertainty and variation of fees across time in addition to space.

This study briefly analyzed the potential impact of such a proposed cap in prototypical development in the four cities based on median home values in May 2021. Utilizing the twelve percent of median home price cap proposed in state legislation, this study first modelled the impact on development fees in a prototypical 2,500 square foot development, Model 3, in May 2021.

118. Raetz, supra note 61, at 11.
120. Raetz, supra note 61.
121. Id. at 14.
122. Interestingly, school fees in each of the four cities utilize square footage as the basis of fee calculation in accordance with California Education Code section 17620 and California Government Code section 65995; however, none of the four cities at the focus of this study cap fees as proposed in Assembly Bill 3145 and Assembly Bill 678.
Interestingly, the 12% of median home price cap only caused the fees to drop in Stockton, as Stockton has a relatively low median home price. Indeed, fees on a 2,500 square foot home would have to drop by about 22% as a result of the cap in Stockton; however, the caps exceeded the fees for the 2,500 square foot home in each of the other cities, meaning they produced no impact. Thus, the impact of a fee price cap largely depends on the area’s median home price.


124. See Figure 3, supra note 123; Author Data & Calculations, supra note 71.

125. See Figure 3, supra note 123; Author Data & Calculations, supra note 71.
Looking at the other three single family models with a focus on the interaction between the adoption of the square feet multiplier and the 12% cap, the twelve percent cap only reduces fees further than the square foot multiplier with regard to Model 2 (2,050 s.f. +500 s.f. garage) and Model 4 (3,500 s.f. +750 s.f. garage) in Stockton (from $54,009 to $48,000 for Model 2 and from $77,522 to $48,000 for Model 4) and with regard to Model 4 in Tracy, Manteca, and Modesto (from $95,985 to $84,240 in Tracy, from $75,427 to $67,800 in Manteca, and from $58,582 to $50,220 in Modesto).  

![Figure 4: Impact of 12% cap on May 2021 fees in single-family housing Models 1, 2, and 4 in Four Cities](image)

126. See Figure 4, infra note 127; Author Data & Calculations, supra note 71.
127. Author Data & Calculations, supra note 71.
The results suggest that the proposed cap would likely lead to a lowering of fees in areas with lower median home prices or larger housing developments, which would likely incentivize larger housing developments and housing development in areas with comparatively affordable housing already. After a particular threshold depending on a city’s fees, as the median home price goes down and the square footage goes up, the impact of the price cap increases.

Beyond the limited impact of a price cap in the four cities according to the model, such caps likely increase the potential for unintended consequences, particularly when using a per square foot multiplier. Indeed, if using square footage as the basis for calculating fees, a fee cap may only be binding on larger, more expensive homes in some communities. To make up in the loss of revenue from larger homes with capped fees, local governments would have to increase the per square foot fees to recover the lost revenues from smaller units, counteracting the incentive to build more affordable units from switching to per square foot fees. Thus, our analysis does not support a fee cap based on median home prices due to uncertainty and the potential negative impact on per square foot fees.

Similar to California’s experience with Proposition 13, which capped property taxes since 1978, local governments may lose vital funding or otherwise choose to offset any funding declines through use of alternative funding mechanisms or to limit affordable housing developments in favor of more lucrative developments. Indeed, “[i]n many cases, high fees are a symptom of increasing strain on local budgets” and, some stakeholders warn that “capping the revenue stream provided by fees could severely hinder the ability of localities to fund their infrastructure needs.”

Thus, as noted by the Terner Center, any “fee cap could make it more difficult to build housing, either by constraining resources in low resource communities, or incentivizing localities to use regulatory tools to limit real estate development.”

For example, some localities could attempt to put a moratorium on building permits based on a lack of resources for required services,
including water,\textsuperscript{130} or utilize land use regulations to otherwise limit density or service reductions to offset funding revenue declines.\textsuperscript{131} These unintended consequences would need to be carefully monitored to ensure that jurisdictions foster the production of enough affordable housing to meet the needs of their constituency while not being overburdened by new developments.

In addition to increased monitoring and enforcement of housing obligations to address unintended consequences,\textsuperscript{132} the tendency of the fee caps proposed in AB 3145 and AB 678 to incentivize larger housing developments must be addressed to prevent undermining the impact of converting to a square foot multiplier. Although not tested in the model, some of the problems with the proposed fee caps encouraging larger developments may be alleviated if the caps were on the amount assessed per square foot rather than the total fees per parcel. If such a cap were to vary by location, it should be based on a cost index or local wage rates that are more stable than median home values. This may help further incentivize denser housing developments and add to the impact of adopting a per square foot multiplier. Indeed, a statewide cap on per square foot fees, adjusted for local expenses, appears to be a potential option to evaluate in future studies, especially since localities may attempt to minimize any potential reduction in total fees collected when converting to a per square foot multiplier by selecting a higher, although justifiable, per square foot fee.

D. Affordable Housing Fee Deferrals, Reductions, Reimbursements, and Waivers

Several bills have focused on impact fee reductions that are specifically targeted towards affordable housing development. For purposes of this analysis, we define affordable housing as deed-restricted housing units with housing costs linked to income


\textsuperscript{131} Raetz et al., \textit{supra} note 61, at 58.

requirements, not lower-priced market rate housing that is more affordable for low- and moderate-income households. Some of the impact fee reforms we discuss, such as per square foot fee multipliers, would lower costs for both income-restricted affordable housing, as well as smaller, less-expensive market-rate developments. Recent bills focused specifically on affordable housing include Assembly Bills 2186, 3144, and 678.

AB 2186, proposed in 2022, sought to incentivize fee deferrals, reductions, and waivers for affordable housing projects by providing reimbursements to local governments for 50% of the fee reduction and all of the accrued interest on a deferred fee. Previously, AB 3144 similarly sought to establish a Housing Cost Reduction Incentive Program to reimburse applicant cities and counties for 50% of the amount of development fees waived or reduced for qualified rental housing development projects. In 2021, AB 678, in pertinent part, also proposed creating the Housing Cost Reduction Incentive Program to help offset some of the loss in revenue from reducing or waiving fees for affordable housing.

Of course, local governments can waive or reduce development fees for affordable housing without this incentive, but many are reluctant to do so because of the lost revenue and the real costs affordable housing developments place on their infrastructure. The idea behind these bills is that state cost-sharing will encourage cities to provide a local match to state funding. The state could just apply funding directly to affordable housing development, but these bills hope to leverage additional local support for affordable housing.

While these affordable housing fee-waiver incentives may be successful in encouraging waivers from local governments, they could also create several incentives that could work against the broader goals of expanded housing supply and affordability. First, a 50% cost sharing incentive from the state may produce an incentive for local governments to keep the fees as high as justifiable in order to capture more state funding. This incentive could be counteracted by providing cost-sharing in fixed amounts rather than a percentage. For similar reasons, a percentage-based cost-sharing subsidy may discourage local

governments from adopting a per square foot fee multiplier that would reduce costs for both affordable housing and smaller, less-expensive market-rate units. Finally, these programs are dependent on state funding, which can be volatile and uncertain. If funding is not reliable, local governments may be incentivized to exact higher fees but receive less state funding than anticipated.

Still, to the extent that cost-sharing incentives lead to fee deferrals and reductions, such a program could encourage more affordable housing development. Similar to the recommendation that fee caps be set on per square foot basis rather than on total fees, affordable fee reduction incentives will be more effective as fixed amounts rather than a 50% cost reimbursement. In addition, localities seriously considering increasing the supply of affordable housing should carefully consider deferring and/or reducing fees for such developments.

Of course, cities have the option to waive all or a portion of fees for affordable housing developments, even without state funding incentives. State law could even require local governments to do so. For example, an existing law known as the “Density Bonus Law” requires local authorities to increase the permissible density, reduce parking requirements, and provide additional concessions or incentives for developers to produce certain percentages of affordable housing.137

Indeed, AB 3148 in 2020 proposed to require local authorities, except school districts, “reduce an impact fee or other charges imposed on the construction of a deed restricted affordable housing unit built pursuant to a density bonus” to set percentages of fees normally levied on market-rate units (unless an inclusionary housing ordinance required the affordable units).138

<table>
<thead>
<tr>
<th>Income Level Restriction</th>
<th>Percentage of Market-Rate Fee</th>
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</thead>
<tbody>
<tr>
<td>Moderate income household units</td>
<td>75%</td>
</tr>
<tr>
<td>Lower income household units</td>
<td>50%</td>
</tr>
<tr>
<td>Very low income household units</td>
<td>25%</td>
</tr>
</tbody>
</table>

*Table 1: AB 3148’s Proposed Fee Reductions for Affordable Housing*139

139. *Id.*
Further, in 2021, AB 571 proposed requiring that “affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, shall not be imposed on a housing development’s affordable units.”\textsuperscript{140} AB 571 suggests that such fees, when assessed on deed-restricted affordable housing units, appear ineffective because they disincentivize the production of the maximum set aside of affordable housing units in proposed developments in favor of collecting fees for some potential future affordable housing development. Deed-restricted affordable housing units cannot effectively pass on costs to affordable housing occupants with restricted rents and utility allowances, so the additional fees reduce the number of affordable units vis-à-vis market-rate units and/or make the project less affordable, which leads to more expensive market-rate units or project infeasibility.

AB 2722 in 2020 proposed that a local authority out of compliance with state housing law (such as by not building enough affordable housing) shall defer payment of impact fees for twenty years from final inspection or issuance of the certificate of occupancy for the development.\textsuperscript{141} While AB 2722 sought to encourage local authorities’ compliance with state housing law, it also recognized the benefits for developers of deferring payment of fees until affordable housing developments are completed, with at least forty percent of units reserved for low or moderate income households.\textsuperscript{142} With eighty-six localities out of compliance with state housing law (21.55%),\textsuperscript{143} a proposal like AB 2722 may produce a greater impact than AB 2186’s proposal to incentivize fee deferrals for affordable housing developments by providing grants to local governments for all of the accrued interest on a deferred fee.

Although not modeled in this study, due to the variety of methods of implementation, deferring, reducing, reimbursing, and/or waiving fees for affordable housing developments will likely help make these projects more feasible for developers, which in turn may increase the

\begin{footnotesize}
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  \item 142. \textit{Id.}
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supply of affordable housing. Still, it is important that any incentives for affordable housing fee waivers, reductions, and deferments not create separate incentives to maintain high fees for moderate-priced market-rate units or discourage the adoption of per square foot basis for such fees. Thus, structuring any state reimbursement of fee waivers on a percentage basis is inadvisable.

E. Higher Standard for Justification

Additionally, the Terner Center suggested that “[c]ities should also carefully review the types of fees they charge, the amounts of fees, and the basis for fees.”144 Related to this strategy, AB 602 now requires the completion of an impact fee nexus study prior to the adoption of a development fee, and that the study follow specified standards and practices, including optional utilization of an impact fee nexus study template developed by the state.145 By bolstering the requirements for nexus studies, as well as by increasing transparency and participation in the process, legislation can require a more careful review of development fees, including the types, amounts, timing, effectiveness, and appropriateness for housing development projects in the area.

In the North San Joaquin Valley areas at the focus of this Article, several cities impose costly impact fees to support farmland preservation programs that purchase conservation easements on existing farmland in response to concerns that residential development permanently shifts land from agricultural use. Conversely, the Agricultural Land Mitigation Impact Fee in cities like Manteca and Stockton may represent an ineffective and/or non-essential fee worth eliminating under a higher standard for fee assessment. For example, our model of fees in the City of Stockton shows the Agricultural Land Mitigation Impact Fee is about $3,000 for the typical house, about the same as parkland fees, and four to five times the fee dedicated to fire and police stations, respectively. While conservation easements can be effective in protecting a specific environmental value tied to a specific location, it is unlikely that general farmland easements prevent the loss of agricultural land in total. Such easements may provide generous funding to farms that are unlikely to ever be developed or just shift

144. Mawhorter et al., supra note 6, at 24.
development pressure from one parcel to another. In low-income communities like these where the general population is impacted by high housing costs and inadequate affordable housing opportunities, and where farmers tend to have higher wealth than the average resident, these fees are questionable on both efficiency and equity grounds.146

Additionally, some local authorities provide a choice for developers converting agricultural land to dedicate an offsite agricultural conservation easement at a 1:1 ratio or to pay an in-lieu agricultural mitigation fee.147 This allows developers to acquire conservation credits from agricultural farmland mitigation banks, or to implement other mitigation measures. Such measures may miss the opportunity for careful analysis and selection of the most effective and efficient mitigation measure while also considering other policy goals for the area. Further, in King and Gardiner Farms, LLC v. County of Kern, et al., the Court noted the following regarding agricultural conservation easements utilized as a mitigation measure:

Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project’s impact on agricultural land.148

Thus, local authorities must carefully consider the use of agricultural conservation easement programs in general, including as mitigation measures, in order to effectively and efficiently realize policy goals. The Agricultural Land Mitigation Impact Fee in cities like Manteca and


Stockton may represent an ineffective and/or non-essential fee worth eliminating as stricter nexus requirements are implemented pursuant to AB 602.

Still, protecting farmland under threat to ensure the agricultural industry’s continued ability to meet needs represents a critically important goal. Local governments can protect farmland through existing land use controls, such as general plans and zoning ordinances, which appear effective and efficient. Such measures also provide local zoning and use authorities with more flexibility to tailor development toward policy goals and conservation values as part of a more comprehensive vision for the area. To provide even more focused consideration and direction for agricultural conservation, local authorities may also choose to include an agricultural element with their general plan, which can designate areas for farmland and farmworker housing.

While relying on the general plan to conserve agricultural land subjects such conservation measures to potential amendments, local authorities can take steps to increase the difficulty of securing amendments in the future. For example, local authorities can set specific goals regarding farmland protection in the general plan that are more likely to trigger the need for mitigation measures under the California Environmental Quality Act (“CEQA”) in the event of amendment.149

Another area where additional scrutiny could potentially lower fees within our study areas is utility connection fees. For each of the four cities included in this study, utilities fees represent either the largest or second largest fee. At their most extreme, utilities fees comprise fifty-four percent of the cost of fees for the prototypical multi-family development in Tracy.150 A reduction in upfront utilities fees, including through deferring payment, reduces not only initial costs but also carrying costs associated with financing payment of such fees.

Utility fees are not included in the requirements of AB 602, including the elements related to per square foot multipliers as well as higher standards for nexus studies. Given the large burden of utility fees

150. See Author Data & Calculations, supra note 71.
to new development in many communities, this is an exemption that should be reconsidered. Many of these fees do not just cover the cost of extending water and sewer lines to new development, but also cover the cost of new and upgraded facilities that are shared with existing customers. While utility rate studies attempt to fairly allocate those costs between new and existing users, the cost allocated to new development could be allocated to on-going water and wastewater rates that are paid each month rather than one-time development impact fees.  

III. RECOMMENDATIONS

While many options exist to foster greater housing development in California, this study focused on ways to reform development fees to lower production costs and incentivize more affordable and lower-cost market rate housing units. This article uses models of development fees in four inland California cities to illustrate the structure of fees and evaluate legislative proposals to change how these fees are implemented. This article further examined four types of reform proposals and considered how they work together. With respect to these four areas, the following recommendations may foster greater housing development in California:

1. Calculating housing development fees on a square footage basis to incentivize the production of more, smaller units, including additional multi-family developments, to help increase the supply of affordable housing. At a minimum, require public facility fees to shift from a per unit to per square foot basis for residential housing. Passing AB 602 was a step in the right direction and makes it easier for local governments to change their fee basis, but the state should adopt a stronger policy of requiring the change with limited exceptions, as proposed in AB 1924.

151. For example, see the City of Tracy’s 2021 development impact fee study, which simply divides costs that have been allocated to new development by the estimated future dwelling units to determine fixed per unit fees—it does not contemplate charging these fees on a per square foot basis or paying in monthly water and wastewater rates. Harris & Associates, Core Fees Development Impact Fee Study, CITY OF TRACY (Aug. 2021), https://www.cityoftracy.org/home/showpublisheddocument/12306/637793853743976371.
2. Fee caps as a percentage of median home values applied to total fees per developed parcel, as proposed by AB 3145 and AB 678, should be avoided. A cap on total per square foot fees could be effective, especially if the basis for any regional differences were based on cost or wageindexes rather than home values.

3. State cost-sharing for affordable housing fee waivers should be implemented with caution, due to uncertain funding and the potential to discourage the adoption of per square foot fees. Any cost-sharing incentives should take the form of fixed grants rather than a cost-sharing percentage.

4. Higher justification standards for fees in nexus studies and greater transparency are essential. AB 602 should lead to improvements in these areas for certain fees. Stronger justification is also needed for fees not subject to AB 602, such as utility connection fees.

In addition to the adjustments above, local governments should strive to adopt best practices for reducing the cost burdens of fees, as well as to explore alternative approaches to finance infrastructure improvements. As recommended in the recent report from the Terner Center at UC Berkeley, cities should increase transparency, consider fee deferrals when units are occupied, and join the Statewide Community Infrastructure Program (“SCIP”) to help developers finance development fees.

CONCLUSION

Implementing the recommendations outlined in Part III will require political willpower, as well as interdepartmental and interagency consideration and cooperation. With the troubling state of the affordable housing crisis, maintaining the status quo does not appear to be a sustainable option. Working to solve the housing affordability crisis will produce many benefits in addition to providing people with an affordable place to call home. As recognized and codified in California statutory code, “[w]hen Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.”

152. CAL. GOV’T CODE § 65589.5(a)(2)(H) (West 2023).
Not only do the recommendations above serve to increase the supply of affordable housing in each of the four cities at the focus of this study, these recommendations would also help prepare these cities for state legislation that may inevitably require some of this Article’s proposed changes. By implementing these recommendations before a state mandate requires it (and with several state incentives to do so already in place) local authorities may attract even more housing development compared to localities that choose to further delay implementation. By implementing these changes sooner rather than later, California may stand a chance to reduce the number of homeless citizens and solve its housing affordability crisis; paving the way toward a more equitable future.