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Cities vie with state of California over control of BART lands

By Sora O'Doherty

The League of California Cities has recently taken a stand in opposition to Assembly Bill 2923, that would allow Bay Area Rapid Transit to construct housing on any land it owns within a half mile of a BART station free from local control. The bill was introduced by Assembly members David Chiu of the 17th District (mainly San Francisco) and Timothy Grayson of the 14th District (including Pleasant Hill, Concord and Martinez) and is scheduled for committee hearings in June.

Lafayette Mayor Don Tatzin sent a Transit-Oriented Development Notice of Opposition to Chiu stating that the city of Lafayette must oppose the bill as it gives BART land use authority over BART owned property within a half mile of an existing or planned BART station. "It is very important to note," the notice continues, "that land use regulation is a Constitutionally-granted local government function of cities and counties." Tatzin warns that "bestowing land use power onto a transit agency that is unaccountable to community members is contrary to existing law and may violate Article XI, section 11 of the State Constitution." The LOCC echoes Tatzin's words. Tatzin raises several additional concerns about the bill, including its vagueness. He raises the specter that BART could engage in land speculations, purchasing properties and imposing on them development standards in conflict with the local general plan. BART could then, he posits, lease the properties to the highest bidders.

Orinda Mayor Amy Worth said that she too is writing in opposition to the bill, as are the mayors of other cities on the BART line. Every year, she said, the state brings legislation that would erode local control, but it would be more effective to work collaboratively. Last year, according to Worth, the Assembly gave BART authority to buy land within a half mile of BART stations. The BART parking lot in Orinda, she noted, is not owned by BART but leased from Caltrans. Each community is different, according to Worth, and has different needs. Orinda is a suburban community, and residents are pretty much limited to accessing BART by driving to the station and parking. If BART were to acquire the Caltrans property, the city would work with BART, but, Worth explained, Orinda incorporated precisely for the purpose of obtaining local control over land use.

Orinda is pretty much built out at this point. Owing to the difficulty of the landscape, Worth thinks that use of electric bikes will increase, and thinks that BART should increase parking for motorcycles, scooters and electric bikes. She is also optimistic about the success of Orinda's multi-modal downtown streetscape. Worth acknowledges the need for more housing in the Bay Area. But cities don't build houses, she says. However, she pointed to the successful senior housing development, Eden. The city worked with Eden. The land was owned by the city, which found a nonprofit land developer. Eden leases the property and manages the senior development. One of the chief deterrents to improving housing stock, Worth said, is that cities no longer have access to redevelopment funds. Since that change, housing production has slowed way down, she said. Cities may zone for housing, but they can't make developers build it. She pointed to the city of Richmond as an example. On the other hand, there is significant development near BART stations in Pleasant Hill, Lafayette and Concord, and other cities in Contra Costa and Alameda Counties.

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