The California Legislature recently enacted, and Governor Gavin Newsom last week signed into law, two major housing reform measures. SB 9 and SB 10 represent California's most transformative new housing laws in decades, and are a belated but welcome legislative response to the state's longstanding housing crisis.

SB 9, authored by California State Senate leader Toni Atkins, effectively ends single family residential zoning in most urbanized areas in California. Specifically, it allows homeowners to convert an existing building into two units, and also allows owners to split their parcels into two lots, upon which two units can be built on each (resulting in up to four units) on what have previously been single family-zoned lots. SB 9 provides that in most circumstances local governments cannot block such "infill development" projects. Of critical importance, the new law allows these projects to proceed without any environmental review under the California Environmental Quality Act (CEQA). Exemptions from SB 9 are provided for historic preservation and high fire hazard areas, lots outside urbanized areas and infill locations, and current rent-controlled housing units.

SB 9 is a legislative reaction to California local governments' longstanding, stubborn resistance to new infill housing development projects. Such projects are designed to address California's acknowledged housing crisis by building new housing units in already-developed neighborhoods. They also promote pre-existing state policies favoring construction of such housing projects within existing neighborhoods, rather than in undeveloped suburban or rural areas. Such infill development reduces urban sprawl, long homeowner commutes (known in planning circles as "vehicle miles traveled"), and welcome reductions in both conventional air pollutants and

greenhouse gas emissions that those commutes generate.

SB 9 builds substantially on a more modest housing reform measure the California Legislature enacted several years ago that allows single family homeowners to add an accessory dwelling unit (ADU) to their property, and removes local governments' previous authority to prevent homeowners from constructing ADUs on their lots. The genius of SB 9 is that it further incentivizes single family property owners to subdivide their property, thus realizing significant financial gain, while at the same time increasing critically-needed housing stock in California.

The new legislation was passed over the furious opposition of the League of California Cities and many individual cities and counties, who wish to preserve their traditional land use decision-making authority. But SB 9 establishes a statewide policy of largely abolishing single family zoning in urbanized areas, an innovation pioneered by Portland, Oregon, Minneapolis and–here in California–Sacramento, the state capitol.

SB 10 is a bill authored by Assemblymember Scott Wiener of San Francisco, who for years has sponsored legislation to incentivize the building of new residential housing projects in already-developed areas, close to public transit. In 2017, Wiener successfully attempted to achieve that result by preventing California local governments from blocking certain infill, transit-friendly and affordable housing projects under SB 35, sponsored by Weiner. However, in recent years Wiener was repeatedly unsuccessful in requiring local "upzoning" that would have allowed construction of apartment buildings near transit centers, due to local government opposition. But this year, Wiener's SB 10 took a softer approach: incentivizing local governments to rezone neighborhoods near mass transit stops to allow up to 10 housing units per eligible parcel. As with SB 9, SB 10 makes such infill projects exempt from environmental review under CEQA.

Both new laws take effect on January 1, 2022. They reflect the California Legislature's willingness to "claw back" responsibility for state housing policy that state lawmakers have traditionally delegated to cities and counties. SB 10 and, especially, SB 9 reflect a growing frustration by state lawmakers over local governments' unwillingness to provide more housing within their jurisdictions in the face of "Not in My Back Yard" opposition to such projects from local officials' existing residents and constituents.

In signing SB 9 and SB 10 into law last week, California Governor Gavin Newsom

declared:

> “The housing affordability crisis is undermining the California dream for families across the state, and threatens our long-term growth and prosperity, Making a meaningful impact on this crisis will take bold investments, strong collaboration … and political courage from our leaders and communities to do the right thing and build housing for all.”

Time will tell if newly-enacted SB 9 and SB 10 will achieve the lofty goals of these long-overdue housing reform measures. More on that topic in a subsequent *Legal Planet* post.

(Thanks to fellow Legal Planeteer Ethan Elkind for his helpful suggestions regarding this post.)