

ASSEMBLY BILL

No. 1162

Introduced by Assembly Member Bonta

February 20, 2025

An act to amend Section 529.2 of the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1162, as introduced, Bonta. Challenges to housing and community-serving projects.

Existing law provides that in a civil action brought by a plaintiff to challenge a housing development project that meets or exceeds the requirements for low- or moderate-income housing, a defendant may seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action would result in preventing or delaying the project, as specified. Existing law authorizes the court to limit the amount of the undertaking or to decline to require the plaintiff to furnish an undertaking if the court determines that, based on evidence submitted by the plaintiff, furnishing an undertaking would cause the plaintiff to suffer undue economic hardship.

This bill would expand the type of civil actions for which motions for undertaking may be filed to include actions that challenge a community-serving project, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 529.2 of the Code of Civil Procedure is amended to read:

529.2. (a) In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, *or to challenge a community-serving project, a defendant defendant, including a real party in interest* may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project or other community-serving project.

(b) In responding to a motion for undertaking, the plaintiff may seek to limit the amount of the undertaking by presenting admissible evidence that filing an undertaking will cause it, and in cases where the plaintiff is an unincorporated association, its members, to suffer undue economic hardship. If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order, taking into consideration any admitted evidence of plaintiff's economic hardship and avoiding causing the plaintiff to suffer undue economic hardship, as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars (\$500,000). If the court concludes, based on all of the admissible evidence presented, that a bond in any

1 amount would cause the plaintiff undue economic hardship, the
2 court is authorized in its discretion to decline to impose a bond.

3 (c) If at any time after the plaintiff has filed an undertaking the
4 housing development plan is changed by the developer in bad faith
5 so that it fails to meet or exceed the requirements for low- or
6 moderate-income housing as set forth in Section 65915 of the
7 Government Code, the developer shall be liable to the plaintiff for
8 the cost of obtaining the undertaking.

9 (d) *“Community-serving project,” for the purposes of this*
10 *section, means a project that has the primary function of providing*
11 *public infrastructure, goods, or services related to the basic*
12 *necessities of life, including housing, shelter, food, healthcare,*
13 *hygiene, and safety, and which are undertaken by either a nonprofit*
14 *organization or governmental entity. Community-serving projects*
15 *include, but are not limited to, community health care services,*
16 *food banks or food distribution services, recovery support services*
17 *for victims of crime or domestic violence, streets, parks, libraries,*
18 *animal shelters, or homeless services.*