

# The Value of a Pro-Affordable Housing Statute is Beginning to Take Hold

KODY GLAZER

House Bill 1339 (2020) added new pro-affordable housing language to sections 125.01055 and 166.04151 of the Florida Statutes for counties and cities, respectively, which reads as follows:

(6) Notwithstanding any other law or local ordinance or regulation to the contrary, the board of county [or city] commissioners may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use.

With this law, a local government can override its own comprehensive plan and zoning code to approve an affordable housing development in a zone district or future land use designation that does not currently allow for such development. This new law can expedite affordable development and provide considerable positive benefits if implemented effectively at the local level. A comprehensive explanation and guidance for implementation of HB 1339 can be found in the June 2021 HNN article.

Florida now has one example of this 2020 law resulting in an implementing ordinance and another where this law has been used to approve an affordable housing development. Now is the time for more local governments to make use of this valuable state law.

In October 2021, pursuant to this statutory authority, St. Petersburg amended its land development code, creating a process for consideration of an affordable housing development that would otherwise not be permitted in the zoning districts of Neighborhood Suburban, Neighborhood Traditional, Industrial Suburban, and Industrial Traditional. The implementing ordinance provides procedural requirements, standards of review, and special locational criteria for proposals in an Industrial zoning district to avoid the approval of affordable

housing in areas that are not suitable for housing development. This ordinance was the result of a year-long policy-making process with several months of public input.

At about the same time, Jacksonville used the law to approve an affordable housing development that needed to demonstrate appropriate zoning to apply for State Apartment Incentive Loan (SAIL) funds. Without HB 1339, the development would not have met the deadline to apply for SAIL. The parcel at issue had a zoning designation that allowed housing but only in conjunction with a commercial use. The City used HB 1339 to

waive the commercial use requirement and allowed the developer to gain the necessary zoning approval.

The City also amended its Comprehensive Plan to create a policy that authorizes staff to use the law on a case-by-case basis for housing developments that are supported by state and local affordable housing funding sources. This is an example of superior leadership by a local government planning director.

There are several ways to implement HB 1339. One caveat is that local government should not use this law to permit affordable housing where people should not live, such as near

toxic uses, in food deserts, or areas without adequate transit or infrastructure. If your local government would like assistance in drafting an implementing ordinance or creating policies for the implementation of this important statutory tool, please contact the Florida Housing Coalition for in-depth assistance.

**Kody Glazer** is the Legal Director with the Florida Housing Coalition, specializing in local and state governmental affairs, fair housing, land use, and environmental law, and helped lead the Coalition's technical assistance on CRF administration. He graduated Magna Cum Laude from the Florida State University College of Law, where he served concurrently on the Law Review and the Journal of Land Use & Environmental Law.




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According to Bill Killingsworth, Jacksonville's Planning Director, "This statute helped us implement the housing element of our comprehensive plan by expediting approval of this project and set the stage for assisting many more affordable housing developments."

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