



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

February 21, 2018

Hon. Melissa Melendez
Member of the Assembly
State Capitol, Room 5126
Sacramento, California 95814

Subject: AB 2856 (Melendez), as introduced February 16, 2018 - Oppose

Dear Assembly Member Melendez:

The Judicial Council regrets to inform you of its opposition to AB 2856. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified housing development projects unless the court finds either of the following: (1) the continued construction or operation of the housing development project presents an imminent threat to public health and safety; or (2) the housing development project site contains unforeseen important Native American artifacts or unforeseen important historical or archaeological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project.

In addition, AB 2856 specifies that if the court finds that either of the above criteria is satisfied, the court shall only enjoin those specific activities associated with the housing development project that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical or archaeological values. It is important to note that the Judicial Council's concerns regarding AB 2856 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA generally or the underlying merits of the

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housing development projects covered by the legislation, as those issues are outside the council's purview.

The provisions in AB 2856 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified housing development projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council regrettably opposes AB 2856.

Sincerely,

Mailed February 21, 2018

Daniel Pone

Attorney

DP/jh

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee
Mr. Ken Alex, Executive Director, Governor's Office of Planning and Research



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March 29, 2018

Hon. Al Muratsuchi, Chair
Assembly Natural Resources Committee
State Capitol, Room 2179
Sacramento, California 95814

Subject: AB 2856 (Melendez) as introduced February 16, 2018 - Oppose
Hearing: Assembly Natural Resources Committee – April 9, 2018

Dear Assembly Member Muratsuchi:

The Judicial Council is opposed to AB 2856. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified housing development projects unless the court finds either of the following: (1) the continued construction or operation of the housing development project presents an imminent threat to public health and safety; or (2) the housing development project site contains unforeseen important Native American artifacts or unforeseen important historical or archaeological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project.

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Hon. Al Muratsuchi

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The provisions in AB 2856 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified housing development projects sets a dangerous precedent by interfering with the inherent authority of a judicial officer, which in turn raises a serious separation of powers question.

For these reasons, the Judicial Council opposes AB 2856.

Should you have any questions or require additional information, please contact Daniel Pone at 916-323-3121.

Sincerely,

Mailed March 29, 2018

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee
Hon. Melissa Melendez, Member of the Assembly
Mr. Lawrence Lingbloom, Chief Consultant, Natural Resources Committee
Mr. John Kennedy, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California