



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE

Chief Justice of California

Chair of the Judicial Council

MARTIN HOSHINO

Administrative Director

CORY T. JASPERSON

Director, Governmental Affairs

July 8, 2019

Hon. Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: SB 621 (Glazer), as amended June 17, 2019—Oppose
Hearing: Assembly Judiciary Committee—July 8, 2019

Dear Assembly Member Stone:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,¹ and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference over all other civil actions pursuant to section 21167.1 (a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by SB 621 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has

¹ The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

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July 8, 2019

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historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact me at (916) 323-3121 or cory.jasperson@jud.ca.gov.

Sincerely,

Mailed July 8, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Nicholas Liedtke, Counsel, Assembly Judiciary Committee

Mr. Daryl Thomas Policy Consultant, Assembly Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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TANI G. CANTIL-SAKAUYE

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Chair of the Judicial Council

MARTIN HOSHINO

Administrative Director

CORY T. JASPERSON

Director, Governmental Affairs

July 3, 2019

Hon. Laura Friedman
Chair, Assembly Natural Resources Committee
State Capitol, Room 2137
Sacramento, California 95814

Subject: SB 621 (Glazer), as amended June 17, 2019—Oppose
Hearing: Assembly Natural Resources Committee—July 8, 2019

Dear Assembly Member Friedman:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,¹ and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference over all other civil actions pursuant to section 21167.1 (a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by SB 621 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has

¹ The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Laura Friedman

July 3, 2019

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historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact me at (916) 323-3121 or cory.jasperson@jud.ca.gov.

Sincerely,

Mailed July 3, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee

Ms. Katie Sperla, Policy Consultant, Assembly Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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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

June 18, 2019

Hon. Laura Friedman
Chair, Assembly Natural Resources Committee
State Capitol, Room 2137
Sacramento, California 95814

Subject: SB 621 (Glazer), as amended June 17, 2019—Oppose
Hearing: Assembly Natural Resources Committee—June 24, 2019

Dear Assembly Member Friedman:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,¹ and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference pursuant to section 21167.1 (a) of the Public Resources Code in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by SB 621 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the

¹ The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Laura Friedman

June 18, 2019

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practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact me at (916) 323-3121 or cory.jasperson@jud.ca.gov.

Sincerely,

Mailed June 19, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee

Ms. Katie Sperla, Policy Consultant, Assembly Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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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

April 12, 2019

Hon. Hannah-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2032
Sacramento, California 95814

Subject: SB 621 (Glazer), as amended April 11, 2019—Oppose
Hearing: Senate Judiciary Committee—April 23, 2019

Dear Senator Jackson:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

SB 621 also prohibits a court from staying or enjoining the siting, construction or operation of these affordable housing projects unless the court finds either of the following: (i) the continued construction or operation of the housing project presents an imminent threat to public health and safety; or (ii) the housing project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological 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. The bill specifies further 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 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, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,¹ and that the council is not expressing any views on CEQA generally or

¹ The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Hannah-Beth Jackson

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

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by SB 621 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

Finally, the provision in SB 621 that significantly limits the forms of relief that the court may use in any action challenging the housing projects covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact Daniel Pone at (916) 323-3121 or daniel.pone@jud.ca.gov.

Sincerely,

Mailed April 12, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Judiciary Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Josh Tosney, Consultant, Senate Judiciary Committee

Mr. Morgan Branch, Policy Consultant, Senate Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

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Chief Justice of California

Chair of the Judicial Council

MARTIN HOSHINO

Administrative Director

CORY T. JASPERSON

Director, Governmental Affairs

April 1, 2019

Hon. Benjamin Allen
Chair, Senate Environmental Quality Committee
State Capitol, Room 4076
Sacramento, California 95814

Subject: SB 621 (Glazer), as amended March 28, 2019—Oppose
Hearing: Senate Environmental Quality Committee—April 10, 2019

Dear Senator Allen:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects.¹ It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

SB 621 also prohibits a court from staying or enjoining the siting, construction or operation of these affordable housing projects unless the court finds either of the following: (i) the continued

¹ For purposes of this bill, “affordable housing project” means “a housing project with at least 30 percent of the housing units of the project affordable to individuals or households with an income level that is at or below 80 percent of the area median income level, as defined in Section 50093 of the Health and Safety Code.” (Proposed Public Resources Code section 21168.10(a).)

construction or operation of the housing project presents an imminent threat to public health and safety; or (ii) the housing project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological 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. The bill specifies further 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 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, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,² and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

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Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

Finally, the provision in SB 621 that significantly limits the forms of relief that the court may use in any action challenging the housing projects covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

² The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Benjamin Allen

April 1, 2019

Page 3

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact Daniel Pone at (916) 323-3121 or daniel.pone@jud.ca.gov.

Sincerely,

Mailed April 2, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Environmental Quality Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Genevieve Wong, Consultant, Senate Environmental Quality Committee

Mr. Morgan Branch, Policy Consultant, Senate Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

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

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

March 15, 2019

Hon. Benjamin Allen
Chair, Senate Environmental Quality Committee
State Capitol, Room 4076
Sacramento, California 95814

Subject: SB 621 (Glazer), as introduced—Oppose
Hearing: Senate Environmental Quality Committee—April 10, 2019

Dear Senator Allen:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before July 1, 2020, to amend specified rules of court¹

¹ The rules of court that are referenced in proposed Public Resources Code section 21168.10, subdivision (a) [Rules 3.2220 to 3.2227]: do not apply to appeals, even though the language in the statute implies that they do; include rules that apply only to the Sacramento arena project; and are based on statutory language in the Sacramento statute that does not exist here. In order to avoid any unnecessary confusion should the bill move forward, the council respectfully requests the following technical amendments to section 21168.10(a):

(a) ~~Rules 3.2220 to 3.2237, inclusive, of the California Rules of Court, as may be amended by On or before September 1, 2020,~~ the Judicial Council, shall adopt a rule of court that applies to any action or proceeding brought to attack, review, set aside, void, or annul the certification of an environmental impact report for an affordable housing project or the granting of an approval for an affordable housing project, to require the action or proceeding, including any potential appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceeding with the court. ~~On or before July 1, 2020, the Judicial Council shall amend the California Rules of Court, as necessary, to implement this subdivision.~~

Hon. Benjamin Allen

March 15, 2019

Page 2

to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

SB 621 also prohibits a court from staying or enjoining the siting, construction or operation of these affordable housing projects unless the court finds either of the following: (i) the continued construction or operation of the housing project presents an imminent threat to public health and safety; or (ii) the housing project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological 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. The bill specifies further 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 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, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,² and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

SB 621's requirement that any CEQA lawsuit challenging specified affordable housing projects, including any appeals therefrom, be resolved within 270 days is problematic for a number of reasons. First, CEQA actions are already entitled under current law to calendar preference in both the superior courts and the Courts of Appeal. Imposing a 270-day timeline on top of the existing preference is arbitrary and likely to be unworkable in practice.

Second, the expedited judicial review for all of the projects covered by SB 621 will likely have an adverse impact on other cases. Like other types of calendar preferences, which the Judicial Council has historically opposed, setting an extremely tight timeline for deciding this particular type of case has the practical effect of pushing other cases on the courts' dockets to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and civil cases in which a party is at risk of dying, will take longer to decide.

² The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Benjamin Allen

March 15, 2019

Page 3

Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

Finally, the provision in SB 621 that significantly limits the forms of relief that the court may use in any action challenging the housing projects covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For these reasons, the Judicial Council opposes SB 621. If you have any questions, please feel free to contact Daniel Pone at (916) 323-3121 or daniel.pone@jud.ca.gov.

Sincerely,

Mailed March 20, 2019

Cory T. Jasperson

Director

Judicial Council Governmental Affairs

CTJ/DP/jh

cc: Members, Senate Environmental Quality Committee

Hon. Steven Glazer, Member of the Senate

Hon. Anna Caballero, Member of the Senate

Hon. Melissa Melendez, Member of the Assembly

Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Genevieve Wong, Consultant, Senate Environmental Quality Committee

Mr. Morgan Branch, Policy Consultant, Senate Republican Office of Policy

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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Chief Justice of California

Chair of the Judicial Council

MARTIN HOSHINO

Administrative Director

CORY T. JASPERSON

Director, Governmental Affairs

March 5, 2019

Hon. Steve Glazer
Member of the Senate
State Capitol, Room 5108
Sacramento, California 95814

Subject: SB 621 (Glazer) – as introduced February 22, 2019 – Oppose

Dear Senator Glazer:

The Judicial Council regrets to inform you of its opposition to SB 621. This bill, among other things, requires the Judicial Council, on or before September 1, 2020, to amend specified rules of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act (CEQA) seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. It requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.

SB 621 also prohibits a court from staying or enjoining the siting, construction or operation of these affordable housing projects unless the court finds either of the following: (i) the continued construction or operation of the housing project presents an imminent threat to public health and safety; or (ii) the housing project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological 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. The bill specifies

Hon. Steve Glazer

March 5, 2019

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further 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 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, archaeological, or ecological values.

It is important to note that the Judicial Council's concerns regarding SB 621 are limited solely to the court impacts of the legislation,¹ and that the council is not expressing any views on CEQA generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview.

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Third, providing expedited judicial review for all of the projects covered by SB 621 while other cases proceed under the usual civil procedure rules and timelines undermines equal access to justice. The courts are charged with dispensing equal access to justice for each and every case on their dockets. Singling out this particular type of case for such preferential treatment is fundamentally at odds with how our justice system has historically functioned.

¹ The Judicial Council appreciates the author's inclusion in Section 2 of the bill uncodified language expressing the intent of the Legislature to enact subsequent legislation that would provide additional funding to the courts to enable the courts to adjudicate, in an expeditious manner, actions or proceedings filed pursuant to CEQA.

Hon. Steve Glazer

March 5, 2019

Page 3

Finally, the provision in SB 621 that significantly limits the forms of relief that the court may use in any action challenging the housing projects covered by this bill interferes with the inherent authority of a judicial officer and raises a serious separation of powers question.

For these reasons, the Judicial Council opposes SB 621.

Sincerely,

Mailed March 7, 2019

Daniel Pone

Attorney

DP/jh

cc: Ms. Rachel Wagoner, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California