



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

March 22, 2018

Hon. Vince Fong
Member of the Assembly
State Capitol, Room 4144
Sacramento, California 95814

Subject: AB 2279 (Fong), as amended March 15, 2018 - Oppose

Dear Assembly Member Fong:

The Judicial Council regrets to inform you of its opposition to AB 2279. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified housing projects unless the court finds either of the following: (1) the continued construction or operation of the housing project presents an imminent threat to the public health and safety; or (2) the housing project 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 housing project unless the court stays or enjoins the construction or operation of the housing project.

In addition, AB 2279 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 project that present an imminent threat to public health and safety or that would 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 AB 2279 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA

Hon. Vince Fong
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generally or the underlying merits of the housing projects covered by the legislation, as those issues are outside the council's purview. The provisions in AB 2279 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified housing 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 2279.

Sincerely,

Sent my mail March 23, 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. John Kennedy, Consultant, Assembly Republican Office of Policy and Budget
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 2279 (Fong), as amended March 13, 2018 - Oppose
Hearing: Assembly Natural Resources Committee – April 9, 2018

Dear Assembly Member Muratsuchi:

The Judicial Council is opposed to AB 2279. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining specified housing projects unless the court finds either of the following: (1) the continued construction or operation of the housing project presents an imminent threat to the public health and safety; or (2) the housing project 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 housing project unless the court stays or enjoins the construction or operation of the housing project.

In addition, AB 2279 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 project that present an imminent threat to public health and safety or that would 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 AB 2279 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 housing projects covered by the legislation, as those issues are outside the council's purview.

Hon. Al Muratsuchi

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The provisions in AB 2279 that significantly limit the forms of relief that the court may use in a CEQA action challenging specified housing 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 2279.

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

Sincerely,

Mailed March 29, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/DP/jh

cc: Members, Assembly Natural Resources Committee
Hon. Vince Fong, 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