



March 19, 2025

The Honorable Scott Wiener
California State Senate
1021 O Street, Suite 8620
Sacramento, CA 95814

RE: SB 607 (Wiener) Fast & Focused CEQA Act – SPONSOR

Dear Senator Wiener:

On behalf of the Housing Action Coalition, the Bay Area Council, Rural County Representatives of California, and Prosperity California we are writing in strong support as sponsors of Senate Bill (SB) 607. SB 607 makes targeted reforms to the scope of the environmental analysis required by the California Environmental Quality Act (CEQA) to focus on issues known to be truly environmentally harmful.

When CEQA was passed in 1970, the statute was only four pages long. The intent of the law was for public agencies to evaluate the environmental impact of proposed projects, disclose those impacts to the public, and mitigate them to the degree possible. However, over the years the law's application has expanded and become overly complex. This broad applicability has led to the intentional misapplication of the statute, resulting in unnecessary lawsuits and delays for projects of all shapes and sizes. Years of abuse have resulted in deep frustration with a policy intended to protect communities and ecosystems, but which have often been used for anti-competitive or non-environmental purposes. This status quo undermines and corrodes the law's original purpose.

SB 607 amends CEQA to improve the clarity and efficiency of the law without relaxing any of the standards of environmental review. Currently, CEQA documents, when challenged in court, are held to different standards of judicial review dependent upon the level of document utilized. When reviewing the adequacy of an Environmental Impact Report (EIR), courts use a standard of review that looks at the administrative record when examining the lead agency's decisions in the EIR.

However, a different standard applies to Negative Declarations (ND) and Mitigated Negative Declarations (MND) documents. These are held to the “fair argument” standard. The fair argument standard means that if a “fair argument” can be made that a project may have a significant effect on the environment, an EIR shall be prepared even though there may be other substantial evidence that the project will not have a significant effect (CEQA Guidelines § 15064(f)(1)). In these instances, the court can decide in favor of the petitioner and an EIR document may be required. Since it takes only one piece of documentation showing that a project *may* have a significant adverse impact to require preparation of a full EIR under the fair argument standard, even if strong legitimate and contrary evidence exists, there is an incentive by project opposition to litigate. Unfortunately, the developments most negatively impacted by this are housing projects and other critical services.

A 2024 Little Hoover Report points out that “CEQA litigation more frequently targets housing than it does industrial sites and that CEQA may disproportionately impact the kinds of dense, transit-oriented projects that California policymakers generally identify as critical to meeting state climate goals. Also, CEQA litigation, when it occurs, may disproportionately, challenge housing in higher income neighborhoods – 78 percent of challenged units were in such communities.”

The intent of CEQA was not to prevent smart development, but to ensure that environmental impacts are mitigated to the extent feasible. SB 607 seeks to restore balance by replacing the fair argument judicial review with the substantial evidence standard of review for NDs and MNDs. With this change, the court will focus on whether there is substantial evidence in the administrative record to support the lead agency’s decisions. These declarations will have to be robust and thorough in order to withstand legal challenge, and opponents will need solid evidence that the project will harm the environment before suing.

SB 607 makes additional refinements to strengthen the operational efficiency of CEQA, by allowing projects that, but for a single condition, could have received a categorical or statutory exemption, to do an initial study or EIR study for that one condition. Focusing analysis will ensure proper review takes place, but in a shorter timeline and without having to evaluate all other features and aspects of a project that would have enjoyed a CEQA exemption. The bill also refines the administrative records process by excluding communications of those far removed from project decision making.

Furthermore, addressing systemic delays on housing and other urban infill projects, SB 607 will clarify the existing Class 32 “Infill Development” Categorical Exemption by directing the Governor’s Office of Land Use and Climate Innovation to set alternative safe harbor objective standards and clearer geographic standards and allow that exemption to be used on identical sites located in a county rather than a city. Finally, the legislation will exempt rezonings that are consistent with an already approved housing element from CEQA.

In summary, these policy changes make much needed alterations and clarifications to CEQA, allowing for an increased ability to build housing in areas we know to be the most

sustainable, while preserving existing standards of environmental protections. It is for these reasons that this coalition is proud to sponsor SB 607.

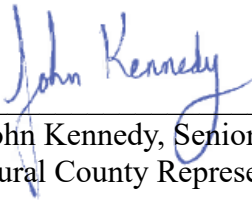
Sincerely,



Corey Smith, Executive Director
Housing Action Coalition



Louis Mirante, Vice President of Public
Policy, Bay Area Council



John Kennedy, Senior Policy Advocate
Rural County Representatives of California



Melissa Breach, CEO
Prosperity California