



# 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*

March 26, 2019

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

Subject: AB 1244 (Fong), as introduced—Oppose  
Hearing: Assembly Natural Resources Committee—April 8, 2019

Dear Assembly Member Friedman:

The Judicial Council regrets to inform you of its opposition to AB 1244. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining a housing project for which an environmental impact report has been certified 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 1244 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.

Hon. Laura Friedman

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It is important to note that the Judicial Council's concerns regarding AB 1244 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.

The provisions in AB 1244 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 1244.

Sincerely,

*Mailed March 26, 2019*

Cory T. Jaspersen

Director

Judicial Council Governmental Affairs

Dp/jh

cc: Members, Assembly Natural Resources Committee

Hon. Vince Fong, 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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*Director, Governmental Affairs*

March 5, 2019

Hon. Vince Fong  
Member of the Assembly  
State Capitol, Room 2002  
Sacramento, California 95814

Subject: AB 1244 (Fong), as introduced February 21, 2019 - Oppose

Dear Assembly Member Fong:

The Judicial Council regrets to inform you of its opposition to AB 1244. This bill prohibits a court in a judicial action or proceeding under the California Environmental Quality Act (CEQA) from staying or enjoining a housing project for which an environmental impact report has been certified 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 1244 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 1244 are limited solely to the court impacts of the legislation, and that the council is not expressing any views on CEQA

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March 5, 2019

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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 1244 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 1244.

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