



City Council

Teresa Gerringer, Mayor
Carl Anduri, Vice Mayor
Susan Candell, Council Member
Gina Dawson, Council Member
Wei-Tai Kwok, Council Member

May 10, 2022

The Honorable Chris Holden
Chair, Assembly Appropriations Committee
1021 O Street, Suite 5650
Sacramento, CA 95814

**RE: Assembly Bill 2656 (Ting) Housing Accountability Act: disapprovals: California Environmental Quality Act.
City of Lafayette – Notice of Opposition**

Dear Assembly Member Holden:

On behalf of the City of Lafayette, I write in opposition to AB 2656 (Ting), which adds two actions under the California Environmental Quality Act (CEQA) review process – (1) denying an exemption and requiring further environmental study to the definition of “disapproval” of a housing development project under the Housing Accountability Act (HAA), and (2) creating a private right of action under the HAA to sue a lead agency over these CEQA actions and seek a court order to comply with the HAA, including requiring the local agency to approve the project. As written, this bill undermines the purpose of CEQA in numerous ways, encourages the application of CEQA exemptions to a broader range of development projects, and has structural legal flaws.

While we understand that the goal of AB 2656 is to prevent local agencies from utilizing CEQA delays as a means to disapprove or downsize development projects, the City views the application of this bill as placing additional pressure on local agencies to limit the environmental review under CEQA for housing development projects. This could result in public safety and environmental concerns, along with dangerous working conditions for construction professionals.

Further, as written, this bill creates legal confusion by equating an interim CEQA decision to a project denial. Housing projects are often eligible for multiple exemptions, so one exemption could be “denied,” and another exemption approved. Or a project could fail to get an exemption it is otherwise eligible for due to cumulative impacts or another exception in the CEQA Guidelines. Regardless, the decision regarding eligibility of a project for exemption is often made by agency planning staff at the beginning of the administrative process. This does not constitute an agency’s final action to deny a project, which must be accomplished via a vote of the legislative body. This bill creates conflicts between CEQA and the HAA, first by creating an opportunity for a Court to order a local agency to approve a project before the CEQA process is complete (an action expressly prohibited by the HAA), and second, allowing a lawsuit to be based on an interim CEQA decision prior to the final action on a project.

AB 2656 sets a dangerous precedent by encouraging developers and local agencies to limit environmental review for developments and creates legal confusion by misaligning intentional harmonies between CEQA and the HAA. For these reasons, the City of Lafayette respectfully opposes AB 2656.

Sincerely,

A handwritten signature in cursive script that reads "Teresa Gerringer". The signature is written in black ink and has a long, sweeping tail that extends to the right.

Teresa Gerringer
Mayor
City of Lafayette

cc: Senator Steve Glazer
Assembly Member Rebecca Bauer-Kahan