



April 9, 2021

**RE: SB 55 (Stern), As Amended April 5, 2021: Fire Safety - Construction Prohibition in SRA
OPPOSE – Identified HOUSING KILLER**

To: The Honorable Henry Stern
 State Capitol, Room 5080

From: California Building Industry Association
 California Business Properties Association
 Building Owners and Managers Association
 American Council of Engineering Companies
 Building Industry Association of the Bay Area
 Sacramento Regional Builders Exchange
 North State Building Industry Association
 Home Builders Association of the Central Coast
 Building Industry Association of Orange County
 Building Industry Association of San Diego County
 Ventura County Contractors Association
 North Coast Builders Exchange
 Valley Builders Exchange
 Placer County Contractors Association

California Chamber of Commerce
 California Association of Realtors
 California Apartment Association
 California Retailers Association
 Associated General Contractors
 California Builders Alliance
 California Forestry Association
 California Business Roundtable
 American Wood Council
 Associated California Loggers
 Nevada County Contractor’s Association
 Bay Area Builders Exchange
 Shasta Builders Exchange
 Builders Exchange of Stockton

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Building Industry Association of Tulare/Kings County, Inc.
Building Industry Association of Fresno and Madera Counties
Building Industry Association of Southern California, Baldy View Chapter
Building Industry Association of Southern California, Los Angeles/Ventura Counties

Dear Senator Stern:

The groups identified above must respectfully oppose SB 55, as amended April 5, 2021. This bill would prohibit any residential or commercial construction in either Very High Fire Severity Zones or State Responsibility Areas (SRAs) unless there is substantial evidence that the local agency has adopted a comprehensive, necessary, and appropriate wildfire prevention and community hardening strategy.

As Amended, SB 55 Provides a New Avenue for NIMBY's to Challenge Housing Projects:

As a practical matter, the April 5th amendments are entirely window dressing and are contradictory to the bills own statements that this measure should not “result in a decrease in the state’s supply of housing.” As currently drafted, the incorporation of terms like “comprehensive”, “necessary”, and “appropriate” when defining the local agencies prevention plan will toss desperately needed housing into the courts for years if not decades, ultimately driving up costs, reducing the number of housing units, or killing the project all together. While little has been done to pass meaningful legislation to make infill housing more accessible or affordable, SB 55 is another illogical measure that also looks to take appropriate, meaningful, and safe housing off the table.

SB 55 Shifts Land-Use Decisions from Local Government to a State Agency:

Existing law authorizes the Director of Forestry and Fire Protection (CalFIRE) to identify areas of the state as Very High Fire Severity and to update these maps as necessary. SB 55 prohibits any new development (residential or commercial) in areas mapped by the state as a Very High Fire Severity Zone or a State Responsibility Area (SRA). As such, SB 55 would remove local land-use authority from local jurisdictions for any areas designated by the state, now **or in the future**, as very high fire severity.

SB 55 Ignores Significant Regulatory Mandates Already in Place:

California already has repeatedly proven effective fire-safety regulations for new development in fire-prone areas. By law and regulation, new development is already required to comply with:

- Board of Forestry’s Fire Safe Regulations for Development (Title 14, Division 1.5, Chapter 7, Subchapter 2): covers development topics such as street widths, slopes, and the provision of water supply in new projects.
- Office of the State Fire Marshal’s Wildland-Urban Interface fire-resistive building standards (Title 24, Part 2, Chapter 7A) requires fire-resistive measures in roofing, walls, windows, vents, decks (often referred to as “home fire hardening”).
- Defensible space provisions (PRC 4291) requiring clearance of fuel load up to 100 feet around the perimeter of structures (or to the property line, whichever is nearer).

Does all this work? A big “yes” to that question.

Peripheral Fire Safety Benefit of New Development:

New development almost always provides fire safety benefits that are realized by older, adjacent jurisdictions. For example, an approved master planned community in Southern California is providing four new fire stations, each serving the project and the neighboring jurisdictions where there is a current need. Master planned communities minimize fire risk and maximize fire defense because they utilize

state building standards and have fire protection plans that are peer reviewed by fire experts and approved by fire officials.

SB 55 would exacerbate California’s Housing Crisis:

The “State Responsibility Area” (SRA) is the area of the state where the State of California is financially responsible for the prevention and suppression of wildfire. It is not a designation of the level of fire risk for a given area.

SB 55 would establish a complete prohibition on any new residential or commercial construction. SRAs cover roughly 30% of the area of California. Making nearly one-third of the state off-limits for housing construction would further drive up the cost of other housing and further exacerbate our housing crisis.

SB 55 Represents a “Taking” of Historical Proportion:

As the Ninth Circuit has said (and the United States Supreme Court has affirmed):

Thus, compensation is required where regulations “leave the owner of land without economically beneficial or productive options for its use – typically ... by requiring land to be left substantially in its natural state – [which suggests] that private property is being pressed into some form of public service under the guise of mitigating serious public harm.” *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1018 (1992); see also *Dolan v. City of Tigard* 114 S.Ct. 2309, 2316 (1994).
Del Monte Dunes v. City of Monterey (9th Cir. 1996) 95 F.3d 1422, 1432; *affirmed* 526 U.S. 687.

As such, SB 55 would represent a “taking” of historical proportions and cost the state potentially hundreds of billions of dollars.

For these reasons, the groups listed above must respectfully oppose SB 55.

California Building Industry Association

California Business Properties Association
Building Owners and Manager Association

California Chamber of Commerce

California Association of Realtors

California Apartment Association

California Retailers Association

American Council of Engineering Companies

Los Angeles/Ventura Chapter
Building Industry Association of Southern California

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Home Builders Association of the Central Coast



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of Orange County



Associated California Loggers



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Building Industry Association of Southern California



Building Industry Association of San Diego County