



August 26, 2013

The Honorable Darrell Steinberg
Senate President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

SB 731 — Support with Changes

Dear Senator Steinberg,

The Council of Infill Builders is a 501(c)(3) nonprofit corporation of real estate professionals committed to improving California through infill development. The organization seeks to educate the public about the benefits of infill for revitalizing neighborhoods, providing transportation choices, creating viable close-knit mixed-use communities, reducing greenhouse gas emissions, aligning jobs with housing and improving the overall economy.

We support your effort with Senate Bill 731 to modernize the California Environmental Quality Act (CEQA) by preserving CEQA's longstanding role in protecting the environment and providing the public with a voice in decision-making, while addressing the law's sometimes unintended effect of disproportionately burdening infill projects.

To make SB 731 even more effective for infill, we encourage you to adopt some of the amendments suggested by the Governor's Office of Planning and Research (OPR), with modifications as explained below. In particular, the Council of Infill Builders respectfully requests that you include the following changes to Senate Bill 731:

- 1) Replacement of Level of Service (LOS) with Vehicle Miles Traveled (VMT): LOS disproportionately hurts infill projects and related infrastructure by privileging automobile traffic over pedestrians, bicyclists, and transit riders. CEQA's outdated and counter-productive LOS analysis hurts California's environment and economy by stifling investment and discouraging walking, biking, and transit use. OPR should be charged with developing guidelines for the VMT metric that support SB 375 and AB 32 goals and delineating specific mitigation measures for projects that cannot meet VMT thresholds that support these goals.
- 2) Development of statewide environmental standards that promote infill and reduce VMT: Locally adopted environmental standards that trigger CEQA review for infill projects create an inefficient patchwork of requirements across the state that discourages infill development. We support giving OPR the authority to develop statewide environmental standards for impacts related to infill, provided these standards are explicitly required to promote infill development and reduce VMT, as envisioned in Chapter 2 of OPR's 2003 general plan guidelines.

- 3) Improvements to specific plan exemptions for mixed-use infill projects only: Good infill projects are more likely to result from comprehensive local government planning. Currently, residential projects consistent with local government specific plans are eligible for CEQA exemptions. The Council of Infill Builders supports OPR’s proposal to expand the category of eligible projects to mixed-use projects only (not the overly broad “commercial” designation), provided they meet infill performance standards that reduce VMT.
- 4) Transparency of CEQA settlements: As mentioned, CEQA has provided critical protections for the environment and the public over its four decade history. But high-profile accounts of the misuse of CEQA for non-environmental purposes damage the law’s credibility and effectiveness. For this reason and others, the Council of Infill Builders supports greater transparency and judicial oversight of CEQA settlements, as currently happens with Proposition 65 settlements. At the very least, all CEQA settlements should be made public by notice to the court, with a strict standard for judicial intervention when necessary to modify settlement terms that are not in the public interest.

In addition to supporting these proposals from OPR, the Council of Infill Builders supports the effort in SB 731 to remove parking and aesthetics as significant impacts under CEQA. We also support the long-overdue mitigation monitoring program that the bill creates.

We hope you consider the changes to Senate Bill 731 listed in this letter. The Council of Infill Builders thanks you for your efforts to bolster infill development in California as a means to protect the environment and encourage a thriving and sustainable economy for the state’s residents.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Johansen", with a long horizontal flourish extending to the right.

Curt Johansen
Chairman, Council of Infill Builders

cc: The Honorable Edmund G. Brown, Governor of the State of California