



January 9, 2026

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee

The Honorable Diane B. Dixon
Vice Chair, Assembly Judiciary Committee

California State Assembly
State Capitol
Sacramento CA 95814

Re: Support for AB 1406 (Ward): Subdivisions; disbursements of deposits

Dear Chair Kalra, Vice Chair Dixon and Members:

On behalf of the Council of Infill Builders, a statewide organization of real estate professionals committed to improving California through infill development, I write to express our support for Assembly Bill 1406. This bill will help create more homeownership opportunities by facilitating condominium construction. It better recognizes the true cost and risk to the projects of having buyers cancel a contract to purchase condominiums and brings California pre-sale law in closer conformity to laws and industry practices that have been in place in other states for decades.

For many decades, condominiums have proven to be an effective path to affordable, entry-level homeownership for first-time buyers. Unfortunately, California has lagged behind other states and nations in producing condominiums. AB 1406 begins to address the structural reasons for this dearth of condominium construction in our state. According to research conducted by the Lambda Alpha International (LAI), the global land economics society, the Canadian province of British Columbia produces ten times the number of condominiums that California does on an annual basis. In fact, only about 3,000 condominiums are built each year in California because of the risk developers and lenders associate with them, in part, due to the statutes that govern pre-sales.

Part of the challenge in the state is that buyers often purchase condominiums pre-construction in order to get a price that will eventually be below market-rate value. In California, there is a de facto three percent earnest money deposit cap, requiring any funds over three percent to be fully refunded to the buyer if they decide to terminate the deal. This limit restricts the cash developers use to purchase the land and construction and forces them to use more expensive debt. It also encourages speculative purchases that can put projects at risk for failure if the buyer defaults and contracts are cancelled. This limited financial exposure for buyers makes the California system more of a purchase reservation, encourages speculation on the part of buyers and shifts more risk and cost to developers as buyers have less "skin in the game." Furthermore, if a project fails to sell more than 50% of its units to owner-occupiers, financing from the Federal National Mortgage Association becomes unavailable as the project is deemed a "failed condominium."

As our members well know, California's 3% cap on liquidated damages also makes it more difficult to obtain attractive financing terms for condominium projects. Since the amount of a buyer's deposit that a

seller may retain if the buyer defaults is low, sellers must obtain more financing at less attractive terms than they would if funds from pre-sold units were more reliable, instead of being subject to refund upon buyer default.

We can create more affordable homeownership opportunities in California by making condominium construction feasible while still requiring strong consumer protections. AB 1406 does exactly this. For these reasons, the Council of Infill Builders strongly supports the bill and encourages an “aye” vote.

Sincerely,



Meea Kang
Director
Council of Infill Builders