

AB 68 (WARD) LAND USE: STREAMLINED HOUSING APPROVALS: DENSITY, SUBDIVISION, AND UTILITY APPROVALS

JOB KILLER



April 3, 2023

The Honorable Buffy Wicks
California State Assembly
1021 O St.
Ste. 4240
Sacramento, CA 95814

**SUBJECT: AB 68 (WARD) LAND USE: STREAMLINED HOUSING APPROVALS:
DENSITY, SUBDIVISION, AND UTILITY APPROVALS
SCHEDULED FOR HEARING – TBD
OPPOSE/**JOB KILLER** and **HOUSING KILLER**– AS AMENDED MARCH 16, 2023**

Dear Chair Wicks and Members of the Housing and Community Development Committee:

The California Chamber of Commerce, California Building Industry Association and the organizations listed respectfully **OPPOSE AB 68 (Ward)**, which the CalChamber has labeled as a **JOB KILLER** and CBIA has labeled a **HOUSING KILLER**, because the bill proposes to strip local governments of their land-use authority by permanently prohibiting *all* new housing construction in counties that the bill claims are not “climate smart parcels,” despite the California Air Resources Board’s (CARB) recognition to the contrary. **AB 68** is a gift to NIMBYs everywhere: it will worsen California’s existing housing crisis by preventing local governments from permitting new housing units in most of their jurisdictions and eliminating construction jobs associated with that new housing. CalChamber encourages streamlining the unnecessarily difficult process to construct housing in California, but *not* at the expense of other critically needed housing. This bill in effect mandates exclusionary land use policies, which will further restrict housing supply, raise costs and prices of homes, further inequality, undermine employers’ ability to recruit for jobs, and disproportionately hurt rural California. **AB 68** is *not* the solution to California’s housing crisis – in fact it would make it worse.

Prohibiting Housing Defies Commonsense

If the objective is to increase California’s housing supply and lower housing costs, **AB 68** misses the mark. The bill defies commonsense housing policy by proposing to streamline multi-family housing on the most expensive land in the state and excluding housing on cheaper available land.¹ Since the single largest cost to construct housing is often the underlying land value, and urban areas tend to be much more expensive (often as much as 10x) given its more limited supply,² California should not be prohibiting local governments from increasing housing where localities find it is most affordable to do so. Instead, California must take a multi-faceted approach to increasing the supply and lowering the costs to build new units throughout all of California. Land available in California is already limited. According to the California Air Resources Board, 6% of the state is developed including urban, suburban and rural areas, as well as transportation and supporting infrastructure.³ Of California’s 100 million acres, 48% is owned by the federal government, the state, or are Tribal Lands. Of the remaining private lands, 16 million acres are protected by the Williamson Act, 8.5 million acres are designated as critical habitat under the federal Endangered Species Act, and 30 million acres are targeted for conservation by Governor Newsom’s efforts to conserve 30 million acres of California by 2030 (22 million are already being conserved).

¹ Most expensive cities in the U.S.”, January 19, 2023; available at: [https://www.consumeraffairs.com/finance/most-expensive-cities-in-the-us.html#:~:text=The%20most%20expensive%20city%20in,%20and%20San%20Diego%20\(No](https://www.consumeraffairs.com/finance/most-expensive-cities-in-the-us.html#:~:text=The%20most%20expensive%20city%20in,%20and%20San%20Diego%20(No)

² <https://www.dailynews.com/2019/04/03/land-use-regulations-are-obstacles-to-the-california-dream#:~:text=Land%20in%20California's%20major%20urban,to%20be%20ten%20times%20greater.>

³ CARB 2022 Scoping Plan, p. 258, available at: <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>.

AB 68 Will Increase Housing Prices Throughout California

In addition to forcing all new housing construction into the most expensive areas to build in the state, **AB 68** also increases housing costs through its proposed adoption of a new statutory method for calculating “vehicle miles travelled” (VMT) requiring combined averaging of cities/unincorporated county’s VMT. Existing VMT in-lieu fees pursuant to CEQA have already on average added \$50,000 per unit to the cost of housing and have even shut down previously approved/planned new housing. Accordingly, **AB 68** would further suppress housing in lower density existing communities and make re-use of underutilized retail, commercial, school and other sites likely infeasible for future housing by further increasing the cost of VMT policies on new housing in these areas.

Significant research shows a correlation between limited land availability and higher housing prices. And urban growth boundaries do more than increase housing prices; they slow the entire regional economy, often leading to significant net migration from high-cost to low-cost metro areas.⁴ In this way, land use policies have a major impact on housing prices. Leading economists find that the reason house prices vary among countries, from three to 15 times the annual incomes of urban residents, depends mainly on the extent to which governments have permitted conversion of land from rural to urban uses.

Higher housing costs result in the production of fewer new homes. According to the Construction Industry Research Bureau, in 1963, when California’s population was 17.5 million people, 322,000 new housing permits were issued. In 2022, with 40 million Californians, approximately 120,000 new housing permits were issued in a housing market already short millions of units to meet demand. For every additional \$1,000 of cost added to a home, it will price out 7,243 households from the housing market.⁵ **AB 68** will erode middle-class housing, creating a bizarre marketplace where the remaining housing choices will be either for the wealthy or for those qualifying for subsidized housing. This policy is exclusionary for a very large class of Californians already facing \$735,000 median home prices.⁶

Disparages and Ignores Innovation in Housing Sector to Fully Mitigate for GHGs

The intent behind **AB 68** implies that approving housing projects in unincorporated areas of a county is bad for the climate. Yet, CARB has recognized 2 master-planned communities for achieving net-zero GHG emissions that collectively add more than 5,600 affordable units to the market.⁷ If **AB 68** were law, neither project would be possible. Mitigation measures employed by these developers include, but are not limited to, the requirement of on-site solar photovoltaic energy systems on residential and commercial properties; the installation of almost 30,000 EV chargers within and outside the plan area; funding incentives for the purchase of 10,500 passenger EVs and electric school buses and trucks; and procuring and retiring carbon offset credits from the voluntary market. Moreover, CEQA requires *all* projects to analyze and mitigate their greenhouse gas emissions impact and mitigate them to less than significant levels. **AB 68** ignores the innovation and dedication to mitigation strategies in the housing sector and existing law under CEQA.

AB 68 Eliminates Thousands of Jobs Associated with Housing Construction

AB 68 jeopardizes hundreds of thousands of proposed and future housing units on land outside of these “climate smart parcels.” Tens of thousands of construction jobs and housing suppliers would be immediately and negatively impacted by **AB 68**. Employers will continue to lose workers to other states as

⁴ The Economic Problems of Constrained Urban Growth, Phil Hayward. Reason Foundation May 2018. Available at: <https://reason.org/wp-content/uploads/2018/05/economics-of-urban-growth-boundaries.pdf>; citations referenced internally include Staley, Sam, Jefferson Edgens and Gerard C. S. Mildner. A Line in the Land: Urban Growth Boundaries, Smart Growth and Housing Affordability. Policy Study No. 263. Los Angeles: Reason Foundation, 1999. 6-10. Print

⁵ NAHB Priced-Out Estimates for 2023.

⁶ <https://www.carb.org/aboutus/mediacenter/newsreleases/2023-News-Releases/february2023sales>

⁷ CARB 2022 Scoping Plan, Appendices.

rising housing costs and further suppression of housing outside of urban areas drives emigration from California.⁸ No amount of streamlining in “climate smart parcels” will overcome the loss of these critically needed housing units, the good paying jobs that come with them and the hundreds of thousands of California employees fleeing high cost of living.

AB 68 is Exclusionary to the Middle Class

AB 68 pre-determines that only a small fraction of available land in California is suitable for housing and that the vast majority of remaining California land is off limits, no matter how sustainable your housing project or thorough your CEQA review. **AB 68** is arguably a form of exclusionary Not-In-My-Back-Yard (NIMBY) housing policies dictating where local governments can and – mostly – cannot permit new housing.

AB 68 Likely Violates Fifth Amendment of U.S. Constitution & Article I, Section 19 of the California Constitution

AB 68 unequivocally prohibits local governments from approving any new housing in their jurisdictions outside of “climate smart parcels,” with very limited exceptions. Accordingly, the bill strips California landowners of their ability to develop privately owned land without just compensation. This likely violates the Fifth Amendment to the United States Constitution—known as the “takings” clause—and the even broader Article I, Section 19 of the California Constitution. As the United States Supreme Court held in *First Lutheran Church v. Los Angeles County* (1987) 482 U.S. 304, 321, “where the government’s activities have already worked a taking of all use of property, no subsequent action by the government can relieve it of the duty to provide compensation for the period during which a taking was effective.” The bill would invite billions of dollars in liability for the state.

California is deeply mired in a housing crisis in terms of both affordability and supply. The Department of Housing and Community Development estimates that the state needs upwards of two hundred thousand housing units per year just to meet current demands. Far more is needed to reduce the back log of up to 2.5 million needed units. It is imperative that the Legislature bring more housing into the market at all levels, in all communities, of all types. Unfortunately, **AB 68** is a poorly conceived housing policy that will reduce supply, raise housing costs, and reduce opportunities for residents to work and raise their families in California.

For all of these reasons, the California Chamber of Commerce, California Building Industry Association and all of the listed organizations **Oppose AB 68 (Ward)**.

Sincerely,



Adam J. Regele
California Chamber of Commerce



Cornelious Burke
California Building Industry Association

On behalf of the following organizations:

Anaheim Chamber of Commerce, Chis Nguyen
Bay Area Council, Matt Regan
Beaumont Chamber of Commerce, Bette Rader
BizFed, Sarah Wiltfong

⁸ According to the latest population estimates from the U.S. Census Bureau, California’s total population declined by more than 500,000 between April 2020 and July 2022, available at: <https://calmatters.org/newsletters/whatmatters/2023/02/california-population-exodus-housing/>

BOMA California, Matthew Hargrove
Brea Chamber of Commerce, Adam Pryor
Building Industry Association of the Bay Area, Bob Glover
Building Industry Association Greater Valley, John Beckman
Building Industry Association of Fresno/Madera Counties, Mike Prandini
Building Industry Association of San Diego County, Lori Holt Pfeiler
Building Industry Association of Southern California, Inc., Jeff Montejano
California Builders Alliance, Timothy Murphy
California Building Industry Association, Cornelious Burke
California Business Properties Association (CBPA), Matthew Hargrove
California Business Roundtable, Brooke Armour
California Chamber of Commerce, Adam Regele
California Hotel & Lodging Association, Lynn Mohrfeld
California Manufacturers & Technology Association, Robert Spiegel
California Restaurant Association, Jot Condie
California Retailers Association, Ryan Allain
Carlsbad Chamber of Commerce, Bret Schanzenbach
Chino Valley Chamber of Commerce, Zeb Welborn
Coalition of California Chambers Orange County, Benjamin Medina
Citrus Heights Chamber of Commerce, Diane Ebbitt-Riehle
Corona Chamber of Commerce, Anthony Maldonado
El Dorado County Chamber of Commerce, Laurel Brent Bumb
El Dorado Hills Chamber of Commerce, Debbie Manning
Elk Grove Chamber of Commerce, Angela Perry
Folsom Chamber of Commerce, Joe Gagliardi
Fontana Chamber of Commerce, Amanda Morales
Fresno Chamber of Commerce, Alicia Aguirre
Glendora Chamber of Commerce, Joe Cina
Greater Bakersfield Chamber of Commerce, Hillary Haenes
Greater Coachella Valley Chamber of Commerce, Diana Soto
Greater Conejo Valley Chamber of Commerce, Danielle Borja
Greater High Desert Chamber of Commerce, Mark Creffield
Greater San Fernando Valley Chamber of Commerce, Nancy Hoffman
Half Moon Bay Coastside Chamber of Commerce, Krystlyn Giedt
Home Builders Association of the Central Coast, Lindy Hatcher
Home Builders Association of Kern County, Allison Brandt Oliver
Imperial Valley Regional Chamber of Commerce, Sher Cowie
Institute of Real Estate Management (IREM), Matthew Hargrove
La Cañada Flintridge Chamber of Commerce, Pat Anderson
Laguna Nigel Chamber of Commerce, Scott Alevy
Lake Elsinore Valley Chamber of Commerce, Kim Joseph Cousins
Lincoln Chamber of Commerce, Tom Indrieri
Los Angeles County Business Federation, Tracy Hernandez
Mission Viejo Chamber of Commerce, Dave Benson
Murrieta/Wildomar Chamber of Commerce, Patrick Ellis
NAIOP California, Matthew Hargrove
Newport Beach Chamber of Commerce, Steve Rosansky
Oceanside Chamber of Commerce, Scott Ashton
Orange County Business Council, Connor Medina
Orange County Taxpayers Association, Sara Catalán
Paso Robles Chamber of Commerce, Amy Russell
Rancho Cordova Chamber of Commerce, Diann Rogers
Rocklin Chamber of Commerce, Robin, Trimble
Roseville Chamber of Commerce, Rana Gabdhan
Sacramento Regional Builders Exchange, Timothy Murphy
San Juan Capistrano Chamber of Commerce, Benjamin Medina

San Marcos Chamber of Commerce, Rick Rungaitis
Santa Barbara South Coast Chamber of Commerce, Dustin Hoiseth
Santa Clarita Valley Chamber of Commerce, Ivan Volschenk
Santa Maria Valley Chamber of Commerce, Glenn Morris
Santa Rosa Metro Chamber, Ananda Sweet
Shingle Springs/Cameron Park Chamber of Commerce, Colette Thiel
South Orange County Economic Coalition, Victoria Hernandez
Templeton Chamber of Commerce, Amy Russell
Torrance Area Chamber of Commerce, Donna Duperron
Tri County Chamber Alliance, Jim Dantona
Tulare Chamber of Commerce, Donnette Silva Carter
UCAN – United Chamber Advocacy Network, Dave Butler
Walnut Creek Chamber of Commerce & Visitors Bureau, Bob Linscheid
The Westly Group, Steve Westly
Yuba Sutter Chamber of Commerce, Kristen Perry

cc: Legislative Affairs, Office of the Governor
Tobias Uptain-Villa, Office of Assemblymember Ward
Steve Wertheim, Assembly Housing and Community Development Committee
William Weber, Assembly Republican Caucus