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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

October 12, 2023

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
State of California
P.O. Box 994255
Sacramento, CA 94244-25550

Re: Initiative #23-0025 – Amendment Number 1

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 23-0025. The amendments are reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,

Stephen Hilton

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DEPARTMENT OF JUSTICE
SACRAMENTO OFFICE

THE CALIFORNIA HOMEOWNERSHIP AFFORDABILITY ACT

SECTION 1. This measure shall be known and may be cited as “The California Homeownership Affordability Act.”

SECTION 2. The people of California find and declare the following:

- (a) Despite hundreds of changes to housing laws since the Legislature first declared a severe housing shortage in 1982, California continues to suffer from a housing affordability and supply crisis that has harmed millions of hard working Californians who cannot afford to buy a home, live where they grew up near parents and grandparents, afford the ever-increasing cost of living in California, or pay for housing "solutions" that worsen homelessness, substance abuse disorders, and perpetuate crime and public disorder.
- (b) According to the state's own calculations, only six percent (6%) of California is developed with homes, businesses, and paved roadways. Even though California has by far the largest population of any state, unelected state bureaucrats insist all new homes must be located inside existing communities, mostly including high density rental apartments crammed into former parking lots and shuttered job sites, and not even carpool lanes and offramp improvements approved by voters should be built on congested and unsafe roads. California's land costs are also far higher than the national average. Allowing local government and voters to authorize new communities on vacant land with no endangered species and no irrigated agriculture— still far less than the approximately 12% of land developed for people in every other high population state except Texas – will substantially reduce housing costs.
- (c) The combined effects of decades of California's laws and regulations has made it about three times more expensive to build a home in California than the rest of the country. California homeownership for middle income families, including households with union members, teachers and nurses, small business owners and their employees, has become increasingly unattainable. Only 16% of California households can afford to buy a home, even though homeownership has for more than a century helped families build multi-generational wealth.
- (d) Affordable rental housing, including for lower income households, has largely vanished from many communities. Taxpayer-subsidized, deed-restricted affordable housing units, often allocated by lottery after multi-year delays, have never exceeded even 5% of the state's housing supply. The cost of building even one new "affordable" apartment for a low-income family now exceeds \$1 million in many of California's most wealthy communities. California's hard working families should not have to win a lottery to have a home.
- (e) California's housing policies have failed, and caused a housing policy crisis that has made housing and homeownership too expensive for too many for too long.
- (f) Beginning in 1972, California also adopted thousands of strict environmental laws and regulations to protect air and water quality, endangered species and wetlands, forests and deserts, rivers and beaches, the health and safety of our communities and workforce, and

more recently to address climate change. Elected law enforcement officials, including the California Attorney General and the independent district attorneys of each county, are responsible for enforcing these laws in court.

- (g) But in 1970, before any of these strict environmental protection laws and regulations were adopted, the California Environmental Quality Act ("CEQA") was enacted by a bi-partisan vote and signed into law by Governor Reagan. CEQA required agencies to analyze, disclose to the public, and avoid or minimize if feasible, the adverse environmental impacts of newly-approved infrastructure and public service projects like roadways and transit, libraries and fire stations, water and wastewater facilities.
- (h) Then in 1972, the California Supreme Court expanded CEQA to apply to housing in a CEQA lawsuit filed by the state Attorney General. In subsequent years, CEQA was repeatedly expanded by court decisions which made changing the view from a parking lot, removing dead vegetation, making park trails accessible for wheelchair and stroller access, an adverse "environmental" impact. Unlike almost all of California's other environmental laws, anyone can sue to block a project under CEQA.
- (i) Over the decades, thousands of CEQA lawsuits have been filed, including by groups that aren't even required to disclose their real identity, even if they are economic competitors. The majority of these lawsuits seek to delay or derail the construction of new homes, and the infrastructure and public services like parks and schools that existing and new residents need, even though new homes and infrastructure cannot be built unless they comply with every single stringent environmental law and regulation.
- (j) Even courts have begun to recognize that while CEQA was "originally intended to protect the environment," it has been "manipulated to be a formidable tool of obstruction, particularly against proposed projects that will increase housing."
- (k) Lawyers, consultants, and special interests have a field day, and make a fortune, manipulating CEQA lawsuits to delay and derail projects, or extract cash settlements that just increase housing and infrastructure project costs. Increased infrastructure costs are funded by taxpayers; increased housing costs mean higher housing costs for future residents.
- (l) CEQA lawsuits often take five or more years to resolve; one single family home on an existing lot that was unanimously supported by adjacent neighbors, and unanimously approved by a local planning commission and city council, was held up in court for eleven years. Once a lawsuit is filed, even if it has no legal merit, construction loans and grants are often not available – so just by filing a CEQA lawsuit, lawyers and special interests can block for many years any kind of project in any location for any reason, such as risk to bird health from window crashes, risk to future residents from future carpets, or "harm" to playgrounds partially shaded for a few extra minutes for a few days a year. Housing delayed or derailed by CEQA lawsuits is housing denied to Californians who cannot afford to buy a home or even rent an apartment in their own communities.

- (m) California agencies have also imposed unprecedented levels of fees and other regulatory compliance costs on new housing: California housing fees are also nearly three times the national average. New homes and apartments can be charged hundreds of thousands of dollars in fees, on top of the cost of land, labor, and building materials. These fees and regulatory costs can make housing unaffordable to middle income families even without CEQA lawsuits.
- (n) Finally, solving the housing affordability and supply crisis requires a robust construction workforce. Because new housing is so frequently bogged down with CEQA delays, and burdened with such high costs, construction workers – like other middle-class workers – cannot afford to buy a home near their work. Unless there are sufficient homes that can be purchased by middle class workers such as construction workers, teachers, first responders, small business owners, and essential workers, trained workers will migrate to other states where they can buy a home and raise their families.
- (o) Increasing the supply of housing and reducing regulatory housing costs are needed to restore the California Dream of homeownership for middle income families, and restore rents to levels affordable to all (not just lottery winners languishing on multi-year waiting lists).
- (p) Based on the foregoing, the people of California find that the CEQA lawsuits and exorbitant and unpredictable agency-imposed fees and costs is a crisis that has worsened notwithstanding decades of new laws and regulations, and has imposed significant burdens on communities and local governments which have the authority, under the California Constitution, to adopt and implement land use and zoning requirements.

SECTION 3. Section 21189.80 is added to the Public Resources Code to read as follows:

§ 21189.80(a) Ending Anti-Housing CEQA Lawsuit Abuse. Restoring affordable homeownership opportunities to middle income Californians is harmed by lawsuits that delay or derail construction of new homes, and the infrastructure, utilities and public services used by residents, especially since these projects must already comply with exceptionally strict environmental laws and regulations.

- (1) A lawsuit alleging non-compliance with the California Environmental Quality Act (Division 13 of the Public Resources Code, commencing with section 21000), for such housing and related infrastructure, utility and public service projects may be filed solely by the independent elected top law enforcement official, the District Attorney, of the County in which the project is located, except that projects located in multiple counties may be filed by the California Attorney General.
- (2) This Act does not change the authority and responsibility of voters and local governments, under the California Constitution and other laws, to exercise local control of land use plans and projects. This Act does not create any exemption, or alter any enforcement authority, for any environmental, labor, housing, transportation, or other law or regulation other than CEQA. This Act does not change the private property right of any party, including the right to file a

lawsuit alleging an unlawful act or omission by a government agency, including by way of example a lawsuit alleging an unlawful taking of private property or a due process violation.

(b) Capping Expensive Government Fees.

- (1) Fees, as defined in paragraph (b) of Section 66000 of the Government Code, imposed by any local agency as a condition of approval, mitigation measure, or payment obligation, on the authorization, construction, or initial occupancy of new homes, may not cumulatively exceed a two-percent (2%) Fee Cap of the construction costs (labor and material) of new homes. Local agency fees shall be used solely for the benefit of local communities. Local agency fees shall be due upon the initial occupancy of the new home.**
- (2) Regulatory compliance costs imposed on a residential, infrastructure, utility or public service project by any state agency as a condition applicable solely to that project in any permit, license, or other form of project authorization, may not cumulatively exceed a Cost Cap of one percent (1%) of the construction costs (labor and material) of these projects. This State agency regulatory cost cap does not apply to regulatory compliance costs that are expressly authorized by statute, in an amount that is expressly identified as either a fee amount or a fee calculation formula based solely on objective factors (such as number of new homes, or acres under construction) applicable uniformly.**
- (3) The local agency Fee Cap and state agency Cost Cap do not apply to fees lawfully assessed by school districts, debt repayments for public financing disclosed to prospective homeowners, renters, or other occupants, or to the actual cost of providing utility service connections and roadway access to new homes. Notwithstanding regulations imposed by unelected bureaucrats, no levy, charge, or exaction regulating or related to vehicle miles traveled may be assessed, or be otherwise required or charged, as a condition of approval, mitigation measure, or other levy, on any new home, infrastructure, or public service project.**

SECTION 4. General Provisions

- A. If any provision of this Act or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.**
- B. This Act is intended to be comprehensive. It is the intent of the people that in the event this Act or Acts relating to the same subject shall appear on the same statewide ballot, the provisions of the other Act or Acts shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other Act or Acts shall be null and void.**