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April 4, 2019

The Honorable Mike McGuire, Chair  
Senate Governance and Finance Committee  
State Capitol, Room 5061  
Sacramento, CA 95814

#### RE: Senate Bill 182 (Jackson) – HOUSING KILLER OPPOSE

Dear Chairman McGuire,

The California Building Industry Association (CBIA), representing the state's approximately 3,000 homebuilders and land developers involved in the home construction industry, writes to inform you that we Oppose SB 182 and have designated it as a **Housing Killer**.

As California continues to grapple with an unprecedented housing affordability crisis, the **Housing Killer** list labels specific legislative proposals based on whether they will either help increase housing for Californians or further exacerbate the housing crisis.

General plans as a practical matter only apply to new construction. However, as our fire experience teaches us, new homes (particularly those built after 2014) have performed the best against the threat of wildfires while older homes have been almost exclusively the victims of wildfires. Before imposing a new regulatory scheme on desperately needed housing production, there needs to be data and analysis presented indicating that the existing regulatory regime, including the 2014 amendments to the safety element is not working in a substantial way. Without such data and analysis, this SB 182 is simply a solution in search of a problem.

Additionally, SB 182 omits the facts offered by the recent fires over the last few years, namely, that older homes in largely infill areas have been the largest sector of burned structures. See, e.g., Coffee Park in Santa Rosa and the City of Ventura.

The following is a partial list of why SB 182 is harmful to housing:

- It creates a long list of restrictions that are based on out-of-state, privately adopted, not publicly available standards (see, the many references to "NFPA" and the US Green Building Council) without paying the private company \$450. These private standards – as well as the required compliance with the Technical Advice Series produced by OPR - do not go through the Administrative Procedures Act (APA) with its

provision for notice, public comment and response to comments. These standards can be amended anytime in the future. Nor are they required to meet the criteria of the APA: authority, reference, consistency, clarity, nonduplication and necessity. This is one reason why these standards conflict with other California law and are vague at best;

- The standards just mentioned and the requirement to comply with wildfire hazard mitigation plans (a plan that is voluntary), and new wildland fire hazard assessments and fire protection plans – either do not yet exist or only in a few locations – impose requirements on new homes that are indeterminable and introduce added uncertainty to a process that has produced an unprecedented housing crisis;
- There is no uniformity to the standards and therefore they will likely differ from one part of the state to another and not result in any measurable risk reduction, much less one that is proportional to the cost;
- The use of ambiguous standards such as “unreasonable risk of wildfire”, “greatest extent practicable”, “including but are not limited to”, “safe distance” and other vagaries will be something only the courts will be able to determine – increasing the litigation risk against housing production;
- SB 182 delegates to the State Board of Forestry and Fire Protection the role of judge of whether cities or counties are in violation of state law by simply a “finding” without any requirement for a notice to the local government or housing proponent, a hearing process or even an evidence requirement. This comes with a new authorization for **an additional private right of action** designed to result in a **moratorium on building permits, zone changes, subdivision map approvals, variances** (see, Government Code section 65755(a)) – the opposite of what’s needed to fix the housing crisis;
- The provisions of the bill dealing with zoning, development agreements, subdivision map approvals and the issuance of building permits will block the production of housing which has already received some entitlement to proceed with housing. These are a non-starter for the homebuilding industry.
- The definition of “adequate housing” doesn’t work in the wildfire process;
- Greatly expanding restrictions on new housing to any area where structures intermingle with vegetation is a non-starter.

There is no perfect place in California to build. A myopic obsession with one concern or another (agricultural land preservation, toxics, wetlands, habitat conservation, sea level rise, seismic safety, flooding, federally owned land, tribal cultural resources or a long list of other concerns applied only to production of new housing) without balancing those concerns with the need that people have for shelter is precisely what has produced the housing crisis.

Without a showing that existing requirements on new homes are not working, we believe that the premise of any bill targeting new homes is unwarranted, much less a bill with all the problems identified above.

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The only certainty that will result from SB 182 is that lawyers will make a lot of money for decades to come while housing production will be more costly resulting in fewer homes built at a slower pace. For these reasons, we have determined that SB 182 is a **Housing Killer**.

We respectfully request a no vote on SB 182.

Please contact me at (916) 340-3338 if you have any questions about our position.

Sincerely,

A handwritten signature in black ink, appearing to read "m. gunning", with a small dot above the final flourish.

Michael A. Gunning  
Senior Vice President of Legislative Affairs

cc: Senator Hanna-Beth Jackson  
Members, Senate Governance & Finance Committee  
Committee Consultants