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April 16, 2019

The Honorable Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, CA 95814

RE: Senate Bill 326 (Hill) – HOUSING KILLER OPPOSE

Dear Chair Jackson:

The California Building Industry Association (CBIA), represents approximately 3,000 homebuilders and land developers who collectively produce approximately 80% of the new homes built in California. According to many experts, California needs approximately 3.5 million more homes in order to meet its existing population needs. The lack of affordability and availability have truly reached crisis proportions.

We have identified SB 326 as a **Housing-Killer** because of the added costs the bill will impose on the production of homes in California. These impacts will be most felt on the types of projects the state wants us to build for their environmental and public safety benefits – high density multi-family housing.

On a broader scale than housing, SB 326 is designed to be anti-consumer, anti-democracy and anti-transparency. On April 2, this Committee passed SB 323 (Weickowski), a bill that is a response to homeowner's association (HOA) boards that are undermining the democratic nature of HOAs by not sending notice of elections, limiting members ability to vote and rigging balloting procedures. In stark contrast, this bill seeks to cloak elections of HOAs in secrecy and prevent members from voting.

We do not want or support allowing the declarant to vote either as a board member or as a member of the HOA participating in the determination of the board to initiate litigation against the declarant, because this would extend the statute of repose for filing construction defects, see, Civil Code section 895(e). However, we see no good reason for prohibiting a homeowner from being informed of the action the board is contemplating and its potential consequences to the homeowner. The claim process may require the homeowner to take time out of their day to allow inspections of their home, participate in depositions, testify as a witness and expose them to other burdens that they have a right to know about before the decision is made to proceed with litigation. Not obtaining the informed consent of these homeowners will result in hiding facts and burdens from the affected consumer and promotes uninformed decision making.

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Rather than eliminating the informed democratic governing structure of HOAs, a better way would be to require the consent of 51% of the members.

The addition of section 4770 exposes the declarant to liability for violating copyright protections where they don't own the rights to the architectural and structural plans. Moreover, changes are frequently made during the construction process in order to accommodate the desires of consumers, so the plans are not a reliable indication of the project as built. Additionally, the requirement to provide a complete set of such plans and specifications is overbroad in order to conduct inspections of exterior elevated elements. This unnecessary liability will result in higher housing costs and would harm low income homebuyers the most.

The addition of section 5551 is unnecessary and less protective of consumers than existing law. SB 800 (Burton), adopted in 2002, already has a process that requires an inspection and repair of defects. Section 5551 does not contain any requirement to make repairs.

Because SB 326 is anti-consumer, anti-democracy, anti-transparency, and a Housing-Killer, we respectfully request a **NO** vote on SB 326.

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

Sincerely,



Michael A. Gunning
Senior Vice President of Legislative Affairs

cc: Senator Jerry Hill
Members, Senate Judiciary Committee
Committee Consultants