



Housing Coalition Sues State of California Over New CEQA Regulations That Inflate Home Prices, Hurt Minorities

SAN BERNARDINO, CA. (Dec. 18, 2019) – The Two Hundred, a coalition of civil rights and community leaders, filed a lawsuit today asking the San Bernardino Superior Court to invalidate new administrative rules under the California Environmental Quality Act (CEQA) because they illegally discriminate against minority homeownership.

The civil rights lawsuit names the state Office of Planning and Research, California Natural Resources Agency and Office of Administrative Law for imposing fees on new housing units based on the projected “vehicle miles traveled” (VMT) in cars and trucks by each occupant. The fees impose mitigation costs on driving even a mile - in even an electric car – as part of the state’s war on climate change.

But the lawsuit says the new fees – which will add \$40,000 to \$400,000 to the cost of new housing units – are not only counter-productive, they are unconstitutional because they amount to “discriminatory anti-housing ‘redlining’ practices with the intended and actual consequence of depriving minority Californians of homeownership.”

The filing draws on voluminous statistical evidence that shows the country’s racial wealth gap stems from decades of housing discrimination, which has prevented people of color from building intergenerational wealth through the equity built through homeownership.

That wealth divide is especially pronounced in California, which has some of the highest home prices and the highest poverty rate in the nation. The

lawsuit says that adding another \$40,000 or more, the regulatory agencies are creating a de facto - and illegal - barrier to homeownership for median-income residents, most of whom are minorities.

“Defendants had actual knowledge that minority families suffer the most from California’s housing crisis, yet intentionally adopted regulations that make housing even more expensive and easier to challenge in CEQA lawsuits – and these are minority families who work hard and earn a solid income that would make them homeowners in other states,” said Jennifer Hernandez, the lead attorney for The Two Hundred and a partner at Holland & Knight.

Added John Gamboa, co-director of The Two Hundred: “For decades, too many California minority families were denied access to homeownership by financial and zoning discrimination, and were also displaced by redevelopment and infrastructure projects that destroyed minority neighborhoods. CEQA is redlining.”

The lawsuit targets five new regulations, a regulatory appendix and two “underground” provisions adopted into administrative law during the waning days of the Jerry Brown administration in December 2018. The changes effectively reclassified VMT as a measurement used by environmental planners to an “environmental impact” under CEQA that must be mitigated by developers.

The lawsuit says the Legislature has repeatedly rejected similar VMT-based fees over the years because of their discriminatory nature. She added that the new regulations, which did not require legislative approval, are at odds with the Governor’s mandate to build 3.5 million new housing units by 2026.

The lawsuit also argues that VMT-based fees, along with other costs created by CEQA, undermine California’s war on climate change because it forces people who want to own homes to states such as Texas, Nevada and Arizona – all of which have higher per capita greenhouse gas emissions. The lawsuit also points out that there are many other greenhouse gas reduction measures that are both more effective and less racially discriminatory, like preventing forest fires and adding fee surcharges on imported luxury goods or plane rides.

Today’s lawsuit is the third CEQA-related legal action by The Two Hundred. The coalition previously sued the California Air Resources Board over its 2017

CEQA scoping plan and has sued several state agencies for refusing to release public records associated with the implementation of those regulations.

The Two Hundred is a coalition of prominent California civil rights advocates, financial advisors, former legislators and community activists dedicated to closing the racial wealth gap by promoting homeownership by families of color. Members include current and former lawmakers, organizers, advisors, county supervisors and a retired CA Supreme Court Associate Justice.

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