



Stoel Rives_{LLP}

A Crossroads: Housing and Fire Risk

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California's Housing Crisis

- Local control, resistance to development, rising construction costs and litigation lead to a severe housing shortage
- 2017 – Newsom runs on a pro-housing platform
- Legislative response – Sacramento takes control
- Slew of bills to expedite housing approval and construction, including CEQA streamlining and exemptions
- Aggressive RHNA allocations



Wildfire Frequency and Severity

- Meanwhile, wildfires have become more frequent, more severe, and more destructive throughout California
- Insurance affordability crisis



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Litigation on All Sides

- *Pearson v. Moraga Orinda Fire District* (2023) – CEQA challenge to vegetation management ordinance approved via exemption. MOFD prevailed.
- *Orindans for Safe Emergency Evacuation (OSEE) v. City of Orinda* (2022) – CEQA challenge to “Plan Orinda,” alleging inadequate analysis of wildfire risk. Petitioners prevailed.
- *SAFE Moraga v. Town of Moraga* (2025) – CEQA challenge to 60-unit apartment complex on the basis that it fails to adequately analyze evacuation risk.
- Meanwhile Cities face significant consequences if General Plans do not confirm or development does not move forward (e.g., Builder’s Remedy)

2025 CEQA Reform: AB 130

- CEQA exemption for urban infill housing projects that meet certain requirements, including avoiding areas of high wildfire risk.
- Cannot be used for projects within CAL FIRE designated very high fire hazard severity zones, or within the state responsibility area. However, this exclusion does not apply where sites have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
- Implements 6-year freeze of the California Building Standards Code, freezing local amendments applicable to housing projects until 2031, with limited exceptions. Exceptions include changes or modifications related to home hardening and changes or modifications necessary as emergency standards to protect health and safety.

2025 CEQA Reform: AB 130

- Increases HCD enforcement authority over methodology for RHNA, adding factors for developing methodology that allocates regional housing, including “emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.”
- Permit Streamlining Act amendments, including ministerial approval process for ADUs and one junior accessory dwelling units can only be used where certain criteria are met, including that the “side and rear setbacks are sufficient for fire and safety.”
- Amends Starter Home Revitalization Act of 2021 (SB 684/ SB 1123) to allow a ministerial approval process for subdividing a parcel only where the lot is not within a very high fire hazard severity zone.

2025 CEQA Reform: SB 131

- Creates a narrower CEQA analysis for “near miss” housing projects with a single impact. Housing projects that would be exempt from CEQA but for a single unsatisfied condition only need to undertake environmental review of impacts related to that condition. May apply to a project located in a very high fire hazard severity zone.
- CEQA exemption for certain rezoning projects undertaken to implement an approved Housing Element that has already gone through CEQA are exempt from CEQA. This provision does not apply to rezoning sites designated as "natural and protected lands," which may include sites in very high fire severity zones.
- Requires the LCI (formerly OPR) to map eligible urban infill sites statewide by 2027 – likely will include whether areas are high fire risk.

2025 CEQA Reform: SB 131

- CEQA exemption for certain wildfire risk reduction projects and other community-serving infrastructure, including:
 - Prescribed fire or fuel reduction projects to reduce wildfire risk. Projects must consult with the CDFW, may not exceed 50 contiguous acres, and must be located within one-half mile of a subdivision with at least 30 units.
 - Defensible space fire clearance up to 100 feet for public roadways identified as egress or evacuation routes to remove flammable vegetation or trees under 12 inches in diameter.
 - Establishment or enhancement of residential home hardening or defensible space for wildfire risk reduction within 200 feet of a legal structure in a high- or very high-fire severity zone; and
 - Fuel breaks up to 200 feet from structures, including clearing flammable vegetation and trees under 12 inches in diameter.

2025 CEQA Reform: AB 100

Aims to expedite fire reduction projects and allocates over \$10 million to support wildfire response and resiliency and \$170 million in funding to conservancies for forest and vegetation management across California. It was signed into law along with an [Executive Order](#) to expedite implementation of these projects by authorizing state agencies to streamline or suspend State statutory and regulatory requirements for fuels reduction projects.



2025 CEQA Reform: SB 79

- Creates a ministerial approval process for housing development within a certain radius of a transit-oriented development stop



What Can Cities Do?

Preparing defensible CEQA evacuation analysis

- Rely on experts, including local fire officials
- Model evacuation scenarios and, where possible, quantify impact on evacuation times
- Consider adopting thresholds for evacuation time

Addressing the conflict

- Talk to legislators about the need to balance housing and wildfire safety
- Look for ways to improve access consider impact fees
- Aggressively fund and undertake fuel management

Objective Criteria Implementing Ordinances

- Establish Objective Standards Where Authorized, Focusing on Fire Protection
 - Housing Accountability Act
 - Specific Adverse Impact on Public Health and Safety based on Objective, Written Public Health or Safety Standards (Government Code § 65589.5(d)(2))
 - Establish objective development standards appropriate to, and consistent with, meeting the regional housing need and/or the need for emergency shelter. (Government Code § 65589.5(f)).
 - Accessory Dwelling Units Ordinance
 - Designate Areas Where ADU's may be permitted based on the adequacy of water and sewer service, traffic flow, and public safety. (Government Code § 66314(a)).
 - Impose objective standards on ADU's (Government Code § 66314(b)).

Objective Criteria Implementing Ordinances

- Establish Objective Standards Where Authorized, Focusing on Fire Protection
 - Accessory Dwelling Units Ordinance
 - In residential or mixed-use zones, the side and rear setbacks must be sufficient for fire and safety (Government Code § 66323(a)1(C)).
 - Consider adopting a fire or life protection ordinance relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling or not (Government Code § 66337).

Objective Criteria Implementing Ordinances

- SB 9
 - Establish Objective Standards to address fire concerns that do not conflict with the statute (Government Code § 65852.21(b)(1); Government Code § 66411.7(c)(1))
 - Include policies and standards relating to public health and safety impacts
 - Implementing Ordinance Not Subject to CEQA (Government Code § 65852.21(j); Government Code § 66411.7(n))
- SB 35
 - Establish objective zoning, subdivision, and design review standards that address fire concerns (Government Code § 65913.4(a)(5))
 - May be embodied in alternative objective land use specifications, and may include housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances

Objective Criteria Implementing Ordinances

- AB 2011
 - Establish objective zoning, subdivision, and design review standards that address fire concerns, consistent with the statutes (Government Code § 65912.113(g); Government Code § 65912.123(j))
 - Determine if parcels should be exempt (Government Code § 65912.114(i); Government Code § 65912.124(i))
- SB 684
 - Establish objective zoning, subdivision, and design standards that address fire concerns, consistent with the statutes. (Government Code § 65852.28(b); Government Code § 66499.41(d))
 - Implementing Ordinance Not Subject to CEQA (Government Code § 65852.28(e); Government Code § 66499.41(i))

Objective Criteria Implementing Ordinances

- SB 4
 - Establish objective development standards that address fire concerns consistent with the statute (Government Code § 65913.16(c)(10))

Types of Objective Criteria Focusing on Fire Protection

- Establish Very High Fire Hazard Zones Supported by Substantial Evidence
- Defensible Space
- Setbacks
- Fuel Breaks
- Limit New Development on Strategic Ridgelines
- Enhanced Building Standards



Questions?

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With more than twenty years of experience in environmental law, public and private clients seek Kathryn's guidance on compliance with various aspects of environmental and land use law, including CEQA, NEPA, federal and state endangered species regulations, contaminated site remediation, water quality and supply concerns, and solid and hazardous waste laws. She regularly assists clients throughout the CEQA project review process, preparing, evaluating, and analyzing negative declarations, draft environmental impact reports, and final environmental impact reports. Kathryn also has extensive experience overseeing contaminated site management, from investigation and remediation to entitlement and redevelopment.

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Rubin E. Cruse, Jr. is a Partner with Renne Public Law Group. Prior to joining RPLG, Rubin served in the Shasta County Counsel's Office for over twenty-four years and as the Shasta County Counsel for over twelve years.

He has extensive expertise on land use, CEQA, and wildfire mitigation, currently advising fire protection districts in those areas.