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STATE HOUSING “BUILDER’S REMEDY” LAW PROVES DANGEROUS TO CALIFORNIA RESIDENTS

Today, Citizens for Responsible and Equitable Development (CRED) filed a lawsuit challenging a “Builder’s Remedy” housing development project approved by the City of Saratoga, located in the foothills south of Silicon Valley. The proposed development, known as “Masson Estates” is situated in a Very High Fire Severity Zone as designated by CALFIRE.

The City Council approved the Project despite concluding that, “The proposed Project would cause irreversible environmental changes associated with its significant and unavoidable impacts related to...emergency access, emergency response and evacuation, wildfire hazards, consistency with an emergency response/evacuation plan, and exposure of project occupants to pollutant concentrations from wildfire.” During the public hearing, Councilmembers were told by city staff and others that the City was likely to face legal retribution from the State Housing and Community Development Department and/or the developer if the Council did not approve the project.

CRED’s lawsuit alleges that the project constitutes a “public nuisance” and that the City, despite its belief to the contrary, has the power and responsibility to disapprove housing developments that present a demonstrated health and safety risk. “Although the legislature has declared housing a statewide interest, so too has the legislature declared that wildfires pose a serious threat to the preservation of the public’s safety; and the California Constitution guarantees every citizen in this state the right to safety. The City Council needs to elevate life safety over new market-rate housing and private developer profits,” said CRED legal counsel Sabrina Venskus, an attorney who practices environmental, land use and housing rights law.

Michael Burry, M.D., CRED’s President, explained “We established Citizens for Responsible and Equitable Development to give residents a voice against over-development in the wildfire-risky Saratoga hills, which relies primarily on one narrow, winding mountain road for evacuation egress. In the wake of the Paradise, Palisades and Eaton fires that killed 116 people and destroyed 35,000 homes and other structures, the very real affordable housing crisis in the Bay Area cannot be solved by building ridiculous very high fire risk zone tinderboxes such as 25 homes 45 feet tall in just 2 acres. City Hall fears developers, fears the State, fears the well-funded and aggressive YIMBY groups, and that fear undermines respect and consideration of its own residents. The residents are left with their constitutional right to safety as the soft target in all this. Over the last 18 months, across numerous City Council meetings, CRED has made its

case in public on behalf of residents, and unfortunately this needed lawsuit speaks for itself. We continue to fight on behalf of the safety rights of residents.”

Ironically, on September 4, 2026, just two weeks after the City Council had heard public comment after public comment opposing the Project due to fears of the development’s impact on residents’ ability to evacuate in the event of a wildfire, a brush fire broke out just over a mile away from the proposed development site. Luckily, winds were light and the fire was put out before it got out of control.

“Our state legislators declaring a ‘housing crisis at all levels’ is untrue and has given our state government cover to give private for-profit developers unimpeded rights in our communities to build out of scale market rate housing projects if they add a tiny percentage of alleged ‘affordable’ units which incidentally aren’t truly affordable to most Californians” said Mona Kaur-Freedland, a resident and board member of CRED. “By refusing to deny approval of this project, our City Council has failed to exercise its police power to protect residents from harm.”

Cities across the state of California are dealing with similar “Builder’s Remedy” projects, including 21 Builder's Remedy projects in the City of Saratoga alone. Incidentally, the same developer has proposed The Mountain Winery housing project, consisting of 237 new homes and an 81-room hotel—not far from the Masson Estates project site -- also located in a CALFIRE Very High Fire Hazard Severity Zone which would rely on the same impacted evacuation routes.

The lawsuit, *Citizens for Responsible and Equitable Development v. City of Saratoga, et al.*, case number: 26CV503751, was filed in Santa Clara Superior Court on September 18th and can be accessed at www.saratogacred.org