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Via Electronic Submittal: <https://ww2.arb.ca.gov/applications/public-comments>

Clerks' Office
California Air Resources Board
1001 I Street
Sacramento, California 95814

RE: Health Impact Analysis

Dear Madame or Sir:

On behalf of our client The Two Hundred for Homeownership, we submit these comments to identify the Scoping Plan's failure to complete the required analysis of the health impacts to existing Californians, and the disparate health impacts to low income Californians and communities of color, for the scores of Scoping Plan measures that add CEQA compliance costs and litigation risks to housing, restrict personal mobility through infeasible VMT and unaffordable VMT mandates, and impose even more regressive increases to the cost of living for utilities and other essential goods and services that increase the number of families that cannot meet monthly expenses (even when public assistance benefits are included in the poverty rate metrics¹. Other comments filed by The Two Hundred also identify these Scoping Plan Measures and impacts.

Poverty is a health impact, as is homelessness. The health impacts of poverty and homelessness are described in detail in Attachment A², Attachment B³, and Attachment C⁴. It is also a multi-generational health impact: the millions of children raised in poverty suffer disproportionately

¹ Even when public assistance benefits are included in the poverty rate metrics.

² See *The Two Hundred et al. v. California Air Resources Board et al.*, (Super. Ct. Fresno County), Case No. 18CECG01494, attached hereto as Attachment A.

³ *The Two Hundred et al. v. The Governor's Office of Planning and Research et al.*, (Super. Ct. Sac. County.), Case No. 34-2020-80003447-CU-WM-GDS, attached hereto as Attachment B.

⁴ Order On Preliminary Injunction, *L.A. Alliance for Human Rights et al. v. City of Los Angeles*, (Super. Ct. Los Angeles County), Case No. LA CV 20-02291-DOC-(KESx), attached hereto as Attachment C. (decision by Federal District Judge Carter, chronicling in detail the adverse health impacts and disparate racial composition of the Los Angeles "skid row" unhoused population.).

and do not achieve the educational attainment levels or future incomes of higher income households.

Under AB 197, the Scoping Plan is required to consider disparate health impacts to low income communities and communities of color. The Scoping Plan and accompanying Environmental Assessment describe pollution exposure impacts and wax rhapsodic about the health benefits of a speculative future world in which Californians drive 30% less and live in high density, high-amenity, transit-dependent neighborhoods where they walk or ride the bus to get to work. There is no evidence that CARB's future rhapsody has been or can be achieved, and overwhelming evidence that it cannot. Attachments A, B, and C to this letter show that new housing being built in transit-rich downtown Los Angeles is overwhelmingly unaffordable to median or low income households. As recently documented by the LA Times, we spend \$1 million on a single small “affordable” apartment which is deed-restricted for families earning less than 50% of the Area Median Income (“AMI”) who pay only one-third of their income on rent.⁵ An 80-120% AMI median income family cannot afford this high density housing type in these small transit priority area, high frequency transit service areas.

Even if this hypothetical future California could eventually be built, CARB must analyze the health impacts of each of its Measures on existing Californians today and over time, not simply in a hypothetical future urban oasis.

The Scoping Plan and Environmental Assessment must fully describe the existing baseline health conditions in the vast majority of California counties, towns and cities in neighborhoods where people must drive low cost cars to get to work and earn the incomes needed to provide housing, food, medical care, and other essentials to their families. CARB must then analyze the impacts of each of its Measures on those Californians during the implementation period - starting immediately after adoption - of each Scoping Plan Measure. CARB is then obligated to consider environmental justice - including race (notwithstanding its attorney's shocking assertion that CARB was fully empowered to require racially discriminatory housing policies during the 2017 Scoping Plan litigation)⁶ - and modify its Measures to avoid causing disparate harms to low income and communities of color.⁷ The costs, impacts, and other consequences of its Measures must also be disclosed. Measures that are “infeasible” - defined in CEQA to encompass Measures that cannot be achieved for legal or economic reasons within the time required to avoid

⁵ L. Dillon and B. Poston, *Affordable housing in California now routinely tops \$1 million per apartment to build*, LA TIMES, June 20, 2022, available at [California affordable housing can top \\$1 million per unit - Los Angeles Times \(latimes.com\)](https://www.latimes.com/california/story/2022-06-20/california-affordable-housing-can-top-1-million-per-unit).

⁶ See *The Two Hundred v. California Air Resources Board*, Order on Demurrer After Hearing, (Super. Ct. Fresno County, 2018, No. 18CEC601494), 12 (“[W]hile defendants argue that there is no constitutionally protected right to housing free of discrimination and thus plaintiffs have not stated a valid due process claim, the court notes that it is well—established that there is a constitutional right to be free of discrimination based on race.”).

⁷ Cal EPA must “[c]onduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.” Pub. Res. Code § 71110(a).

the impact - may not be relied on by CARB to avoid disclosing the racially discriminatory and disparate health harms caused by these transportation, housing, and energy cost Measures.⁸

California has only 12% of the nation's population, but 33% of the nation's low income population that is already receiving one or more forms of public subsidies (food assistance, housing assistance, cash assistance, etc.). CARB's offer of \$1 billion of funding for low income affordable housing construction could fully fund 1,000 new apartments in San Francisco or Los Angeles - against housing supply shortfall of nearly 2,000,000 units in those regions.

The Scoping Plan and its appendices do not include assessments of the Measure's health impacts on low income communities and communities of color in violation of AB 197 and other applicable laws.

For these reasons, and for the other reasons described in other comments filed on behalf of The Two Hundred, the Scoping Plan and its appendices must be comprehensively revised and recirculated to comply with applicable laws, and then - after disclosure of all public documents requested by The Two Hundred - recirculated for public comment.

Sincerely,

HOLLAND & KNIGHT LLP



Jennifer L. Hernandez

JLH:imp

Attachments

cc: Robert Apodaca

⁸ The term "feasible" is defined in CEQA Guidelines § 15364 as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." See also Pub. Res. Code § 21061.1.