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SF Board of Supervisors Unanimously Support CA State Bill 37
Laborers, environmental advocates, residents back closing of loopholes for exempting contaminated Cortese List sites from CEQA review in SF, across the state

SAN FRANCISCO - At the Board of Supervisors meeting today, Supervisor Gordon Mar's resolution in support of CA Senate Bill 37 SB 37 passed unanimously after a spirited discussion at the Board's Land Use and Transportation committee the day before. SB 37 is authored by CA State Senator Dave Cortese, and ensures that sites with contaminated soil and water on the state's "Cortese List" are barred from receiving exemptions to environmental review through the California Environmental Quality Act (CEQA). For over three decades, the Cortese List has documented historical and ongoing contamination to ensure proper oversight as well as mitigation for sites that are redeveloped for housing and commercial uses.

Supervisor Gordon Mar convened a press conference on Monday with colleagues on the SF Board of Supervisors, Senator Cortese, labor, advocacy and community groups in support of SB 37, which passed out of the Senate Environmental Quality committee on April 26th. Mar highlighted the importance of this issue: "For neighbors, construction workers, environmental stewards, and future residents of these projects, a public process makes sense. CEQA provides public oversight and assurance that cleanup plans are properly done."

Senator Cortese, who represents Senate District 15 in Santa Clara County, noted that industrial facilities are often located in proximity to underserved and underrepresented communities, causing undue risks. "When a hazmat site hasn't reached closure and there are documented risks, it's anything but common sense to say there is no possibility of cumulative environmental
impacts going forward," he said. SB 37 would close a loophole and ensure that Common Sense Exemptions cannot be granted on Cortese List sites.

Many of the 2000+ Cortese List sites in San Francisco involve underground storage tanks. In late 2019, San Francisco residents near 1776 Green St. challenged the SF Planning Department after it granted exemptions to the CEQA process. In spite of ongoing contamination from a 100-year old auto body shop where benzene from soil samples exceeding several hundred times the levels for residential and for industrial standards, these exemptions had been granted by the City. Appellants fought for a process allowing public oversight and review.

One of the nearby residents, Dr. Youjeong Kim, who supports housing proposed at that site, described the challenges encountered as they sought answers from SF Planning Department around the various exemptions to CEQA that staff had granted to the cleanup of that site. "The Planning Department failed to disclose the extent of the contamination during the public review process, and it was only through our attorney [Richard Drury]’s help that we discovered this," said Kim. "Planning proposed multiple categorical exemptions for the project, and when we informed them that this was illegal, DPH attempted to close the site on the Cortese List in yet another attempt to avoid CEQA review. City staff then allowed excavation of contaminated soil at the site despite the fact that we had a pending appeal to the Board of Supervisors. These events unfolded over the course of a year and a half—during the pandemic, no less—and took a tremendous toll on me and my neighbors."

"We don't need to look very far to see the tragic examples of Bayview Hunter's Point and Treasure Island," Kim said, in reference to contaminated soils and radioactivity detected impacting current and prospective SF residents of those sites.

At the press event, Supervisor Connie Chan spoke to those challenges in communities like Bayview Hunter's Point, where she noted that BOS President Shamann Walton continues to fight for testing on those contaminated sites. "We continue to push for affordable housing, but not at the expense of the quality of housing."

"It shouldn't take advocates to point out that Common Sense Exemptions shouldn't apply where there are risks of contamination," said Supervisor Dean Preston on Monday. Common Sense Exemptions by law are allowed: "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The California State Council of Laborers is advocating for SB 37. Workers in the building trades are at the front lines of exposure to contamination at job sites. Vince Courtney, representative
for the Northern California District Council, said, "This Cortese bill is a good government bill. It goes a long way in preventing bureaucrats from putting profits over people."

Speaking for the Sierra Club's San Francisco Group, Katherine Howard said that CEQA has many benefits in this state in addition to protecting the environment, as it minimizes court challenges by uncovering issues early on. Since its inception in 1970, CEQA "hasn't prevented California from building and thriving."

In Supervisor Mar's District 4, several sites on the Cortese List had been granted Categorical Exemptions that are on the Cortese list, during the years that SF Planning had operated under miscommunication from the state. The SF Department of Public Health has overseen the cleanup process for sites that are now developed into housing. In June 2020, a SF Chronicle article had highlighted the 1776 Green Street case and documented the status of housing development on a dozen of those sites.

"Through SB 37 we can ensure a legacy of housing, commercial buildings and infrastructure that are safe for generations to come," said Supervisor Mar.

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