



City of Carson Report to Mayor and City Council

June 7, 2011
New Business Consent

SUBJECT: CONSIDERATION OF RESOLUTION NO. 11-076 URGING ENACTMENT OF ASSEMBLY BILL NO. 1207 (FURUTANI) DESIGNED TO PROTECT CONSUMERS' RIGHTS WHEN EXPOSED TO A POLLUTANT OR HAZARDOUS SUBSTANCE

Submitted by William W. Wynder
City Attorney

Approved by Clifford W. Graves
Interim City Manager

I. SUMMARY

This item is on the agenda at the request of Mayor Dear and Councilmember Santarina.

Existing law prohibits bringing an action for damages from any person who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of the development or improvement, as specified.

Assembly Bill No. 1207, sponsored by Assembly Member Furutani, would provide that this limitation does *not* apply to an action in tort to recover damages for damage to real or personal property, or for personal injury or wrongful death from exposure to hazardous or toxic materials, pollution, hazardous waste, or associated environmental remediation activities.

II. RECOMMENDATION

WAIVE further reading and ADOPT Resolution No. 11-076, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, URGING PASSAGE OF ASSEMBLY BILL NO. 1207 (FURUTANI) DESIGNED TO PROTECT CONSUMERS' RIGHTS WHEN EXPOSED TO A POLLUTANT OR HAZARDOUS SUBSTANCE."

III. ALTERNATIVES

TAKE no action on this recommendation.

IV. BACKGROUND

Existing law prohibits bringing an action for damages from any person who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of the development or improvement, as specified.

Assembly Bill No. 1207, sponsored by Assembly Member Furutani, would provide that this limitation does *not* apply to an action in tort to recover damages for damage to real or personal property, or for personal injury or wrongful death from exposure to hazardous or toxic materials, pollution, hazardous waste, or associated environmental remediation activities.

AB 1207 is currently before the Assembly Judiciary Committee for hearing. No date has yet been set for the hearing before that committee. AB 1207 would amend Section 337.15 of the Code of Civil Procedure, relating to the filing and prosecution of certain civil actions. The City Council is requested to adopt a resolution calling for enactment of this important piece of legislation.

V. FISCAL IMPACT

None.

VI. EXHIBITS

1. AB 1207. (pg. 3)
2. Resolution No. 11-076. (pgs. 4-5)

Document1

Prepared by: William W. Wynder, City Attorney

TO:Rev010511

Reviewed by:

City Clerk	<u>City Treasurer</u>
<u>Administrative Services</u>	<u>Development Services</u>
<u>Economic Development Services</u>	<u>Public Services</u>

Action taken by City Council

Date_____ Action_____

ASSEMBLY BILL

No. 1207

Introduced by Assembly Member Furutani

February 18, 2011

An act to amend Section 305 of the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, as introduced, Furutani. Department of Consumer Affairs.

Existing law authorizes the Director of Consumer Affairs to administer and enforce those provisions relating to consumer affairs and a designee of the director to exercise a power or duty of the director.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 305 of the Business and Professions Code
- 2 is amended to read:
- 3 305. The director shall administer and enforce the provisions
- 4 of this chapter. Every power granted or duty imposed upon the
- 5 director under this chapter may be exercised or performed in the
- 6 name of the director by a deputy or assistant director or the chief
- 7 of the department's Division of Consumer Services, subject to
- 8 ~~such~~ *those* conditions and limitations as the director may prescribe.

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RESOLUTION NO. 11-076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CARSON, CALIFORNIA, URGING PASSAGE OF ASSEMBLY
BILL NO. 1207 (FURUTANI) DESIGNED TO PROTECT
CONSUMERS' RIGHTS WHEN EXPOSED TO A POLLUTANT
OR HAZARDOUS SUBSTANCE

WHEREAS, existing law prohibits bringing an action for damages from any person who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of the development or improvement, as specified; and

WHEREAS, Assembly Bill No. 1207, sponsored by Assembly Member Furutani, would provide that this limitation does *not* apply to an action in tort to recover damages for damage to real or personal property, or for personal injury or wrongful death from exposure to hazardous or toxic materials, pollution, hazardous waste, or associated environmental remediation activities; and

WHEREAS, SB No. 444 would clarify that an agency is authorized to disapprove the map if it finds that the results of the survey have not demonstrated adequate resident support; and

WHEREAS, the city of Carson is host to numerous areas that may but subject to prior latent defects in construction or with latent soils issues or contamination, and AB 1207 would afford Carson residents with more meaningful legal options to recover damages from such latent defects or contamination.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the city of Carson, California, supports Assembly Bill No. 1207 and requests that all members of the State Legislature approve and pass this legislative clarification of existing law as soon as possible. City Staff are directed to forward this resolution of support to Assembly Member Furutani, all members of the Assembly Judiciary Committee, and to urge swift enactment of this important piece of legislation.

PASSED, APPROVED and ADOPTED this ____ day of June, 2011.

Mayor Jim Dear

ATTEST:

City Clerk Helen S. Kawagoe, MMC
APPROVED AS TO FORM:

City Attorney