

The logo for NAIOP (National Association of Independent Organized Professionals) is displayed in a large, bold, green font. It is set against a background of a stylized American flag with stars and stripes. The logo is partially enclosed by a blue swoosh that curves around it from the bottom left.

COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

SoCAL CHAPTER

Legislative Affairs Update



Legislative Affairs Committee

www.naiopsocal.org

A Report to the Board of Directors, Sponsors and Members

Committee Chair Justin McCusker • Co-Chair Stephane M. Wandel

February 1, 2018

Good News! Dual Agency Bill Stopped

AB 1059 (Gonzalez-Fletcher) was a bill that would have banned completely the use of dual representation in commercial real estate transactions. This was a very serious threat to our industry as such a ban would have dramatically, and negatively, impacted the ability to complete commercial property transactions. NAIOP SoCal worked closely with CBPA to fight the bill. A very detailed three-month effort was put together to educate the Legislature on the realities surrounding dual agency, and how banning dual agency could actually negatively impact many small business transactions. Additional financial resources were needed for the effort and the NAIOP SoCal Board approved a financial contribution. A key part of the effort was to have individual business owners contact key members of the Legislature so they were not just hearing from “lobbyists”. All of the efforts have paid off as the bill will not move forward this year because it did not get out of Committee hearings before the passage of a legislative deadline to do so. This was a bill that nearly everyone thought would move forward. What the effort to defeat the bill proves is the importance for all our members to be involved in working to protect our industry, not just a few or relying solely on our Sacramento team. What might occur in Sacramento, locally and with regional agencies, can negatively impact your bottom line.

We must also remember that in the Legislative Affairs arena, just because a particular bill or issue has been stopped, we often see them return. Many issues are ones that we have had to fight for a decade or more. So, another part of protecting our industry is to have as many members as possible remaining vigilant for the next problem to arise or return. This is true with the dual agency issue. We are appreciative of the fact that Assemblymember Gonzalez-Fletcher and members of the committee have taken our issues under consideration and have decided to give all parties more time to assess current law and work-out consensus-based language if any changes are indeed needed.

2018 is Off to a Roaring Start and there is no Indication of any Slowdown for the Rest of the Year!

Los Angeles County Proposing Stormwater Parcel Tax – Input Needed

Under the laws regarding clean water cities and counties must comply with rules, called MS4 permits, to address potential pollutants that might be carried from water running into streams, lakes and the ocean during rain storms. Complying can be very expensive and Los Angeles County is proposing a parcel tax that will cover all 88 cities and the County jurisdiction. NAIOP SoCal has been heavily involved in the discussion trying to work cooperatively with the County, even to the point of considering the possibility of a flat parcel tax. But, many groups and members of the Board of Supervisors are attempting to go beyond mere compliance with the MS4 permits in what they call “multi-benefit projects.” Additionally, it is our understanding they will want to discuss the idea of a per square foot tax at our upcoming February meetings. One concept is a per square foot of lot size tax, and a per square foot of impervious surface tax. Also, we have been pushing the idea that new and redevelopment projects should get a credit for the runoff management controls that are built in each project. The County may only want to do rebates.

Action Requested: It would be very helpful to get the Board's thoughts and comments on the flat fee tax versus a per square foot tax, as well as the credit versus rebate idea.

Please contact Peter Herzog at 949-380-3300 or peter@talleyassoc.com for more information. This entire discussion is moving very fast as the Board of Supervisors will decide by June whether to put the tax on the November, 2018 ballot. We expect them to put some form of a parcel tax on that ballot.

Over >>>

Art in Public Places Fee Proposed in City of Stanton – Killed on Second Reading!

A drastic art fee was headed for adoption in the City of Stanton in December, 2017. NAIOP SoCal and its industry partners, including the Orange County BIA, opposed the proposal and succeeded in having it pulled from the agenda. Art fees are gaining attention and killing each one that comes up is critically important to stop the spread of one more fee that adds to the cost of development.

Welcome New Legislative Affairs Committee Member and PAC Member

Former Board Member and Legislative and PAC committee member *Paul Hernandez* received a promotion with the Irvine Company. Replacing Paul on the Committees is *Steven Schuyler*. Welcome Steve!

California Air Resources Board (CARB) and Indirect Source Rules (ISRs) – Some Good News

We have been discussing the issue of ISRs, where they try to make buildings like warehouses responsible for decreasing the emissions of the trucks coming to the facility, with both CARB and the South Coast Air Quality Management District (SCAQMD) for over a decade. This will all reach a milestone in March, 2018 since CARB and SCAQMD are to report to their Boards on the issue and request direction as to how the Boards want to proceed as far as beginning the rule making process. NAIOP SoCal and our large coalition of goods movement partners have been very clear we oppose any ISRs as they would negatively impact the flow of goods, they would not lead to any real decrease of air emissions, and are of questionable legality along with several other issues. We recently had a meeting with CARB and are pleased to report they will NOT be recommending an ISR to the CARB Board. Yet, they still will be focusing on trying to cut truck emissions by considering rules regarding the placement of infrastructure, such as electric charging stations, at warehouses. Additionally, they plan to develop a guidebook on where to site warehouses, their design, operation and other measures. This supposedly will not be a rule or a CEQA requirement, but something available to cities and counties to consider in approving warehouse projects. We have not been provided any written documents to date, but been told some will be coming out in the next week or two.

Action Requested: Board discussion and input on the charging station concept and guidebook would be very welcome as March is just around the corner.

... And Then There Is the SCAQMD

There were numerous meetings with SCAQMD staff in January, and, without asking for any prior input, staff advised us they would be recommending to the SCAQMD Board that they proceed to create an Indirect Source Rule (ISR). They provided us with a two-page sketch, to be polite, of the concept. They want to have the truck fleets that serve warehouses, of which there are way over 100,000 most of which are 1-3 trucks, to “voluntarily certify” that their entire fleet on average is “XX% cleaner” than state law requires. Then, the SCAQMD would impose an ISR that would REQUIRE each warehouse, of which there are about 6,000, “to ensure” the truck fleets serving that warehouse were “YY%” cleaner than state law requires. No indication was given as to how this could be practically done or what the penalties might be for non-compliance. As we questioned the SCAQMD staff it became clear they have not the slightest idea how the trucking industry and warehouses operate. They clearly believed warehouses had full control of the trucks coming to and from the facility. We and the California Trucking Association (CTA) made it very clear they were completely wrong, that there was no way possible to do what they suggest, it would not lead to any real emissions reductions, and the focus should be on research and development of new truck engines since everyone agrees that is the real solution to the “problem”, among other issues. The SCAQMD staff somehow believes such a rule would force the trucking industry to use cleaner trucks sooner, which the CTA proved was not the case. We have begun to meet with each SCAQMD Board member to point out this “concept” should not be pursued. Yet, it is equally clear the environmental community is very focused on having the SCAQMD create an ISR rule on warehouses. We would note the same type of ISR is also proposed for the construction equipment fleet.



“Start treating business owners as a benefit to the State, rather than a burden to be tolerated.” ~ New Year’s Wish of California Small Business Owner