CBPA POLICY PAPER

California Business Properties Association

California Environmental Quality Act (CEQA)

Streamlining the Land Use Planning Process

BACKGROUND

The California Environmental Quality Act (CEQA) is the state's basic environmental law, calling for analysis and disclosure of potentially significant environmental impacts before a public agency approves a project. Since its enactment in 1970 and application to the private sector in 1972, the environmental review process has become progressively more complicated and costly, primarily through expansive court decisions. This situation has led to increasing calls for reform, with CEQA's complexity and uncertainty being identified as a major impediment in improving the economic health and stability of California.

Although the Legislature has made several attempts to reform CEQA, the law continues to present significant impediments for our industry. CEQA is used as a tool by no-growth advocates to stall/stop projects throughout the state in several different ways: It is commonly used for non-environmental purposes; the uncertainty of the "fair argument" standard used by project opponents to stop development; the level and cost of CEQA compliance; and the lack of an effective time limit on the CEQA process.

Because it is such an effective tool to stop projects, CEQA has become sacrosanct among no-growth advocates who vociferously oppose any significant changes in the Act.

With the passage of AB 32, California landmark global warming law, CEQA issues have become even more complicated as no-growth advocates have begun to weave as yet unwritten carbon emission standards into CEQA arguments.

In 2007, one of the longest budget stalemates in history revolved around Attorney General Jerry Brown suing local governments over their "failure to address" carbon emissions in local planning. The stalemate was resolved only when an agreement to protect certain public projects from CEQA lawsuits was reached.

CBPA POSITION

CBPA supports a comprehensive analysis of CEQA and an overhaul of its tenets to reflect advances that have been made since it was written almost 40 years ago.

Short of comprehensive reform, CBPA supports policies that update and/or change CEQA in a manner that acknowledges that due to changes in technology and materials, development projects have increasingly and inherently less impact on the environment than they did when the law was conceived.

CBPA supports limiting mitigation requirements to those measures that are proportional to the project's actual environmental impacts. We believe that all too often in the course of reviewing a proposed development, a local jurisdiction will require mitigation that is inappropriate to the amount of adverse impacts created by the project.

CBPA supports policy that would provide relief from the requirement to analyze a wide range of project alternatives as a condition of project approval.

CBPA supports policy that provides guidance in preparing cumulative impact analyses, including some provision which helps to establish a "safe harbor" to guide public agencies and EIR consultants, and to prevent over-processing due to litigation paranoia.

CBPA supports imposing time limits on CEQA processing, which specify that CEQA's analytical requirements are limited to what can be realistically accomplished in those time limits.

CBPA believes that agencies should not comment on CEQA issues related to projects that are not under that agencies current review.

CBPA calls for state agencies to comply with Government Code Section 11346.54, requiring an assessment by the Resources Agency of the effect of any new regulations on the creation or elimination of jobs, and on new and existing businesses.

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