CP&DR

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New AHSC Guidelines Call For Higher Caps

BY WILLIAM FULTON

In draft program guidelines issued last week, the Strategic Growth Council staff will recommend eliminating the jurisdictional cap on funding, increasing the cap for individual developers from $15 million to $40 million, and setting aside 10% of the funding for rural projects. However, the SGC staff recommendations stop short – so far – of a setaside for each region, as some metropolitan planning organizations requested.

Instead, the SGC staff has recommended that MPO staff should review full AHSC applications based on consistency with each MPO's sustainable communities strategy and provide formal recommendations to the SGC as to which applications should be funded. However, more options may be presented to the SGC at its October meeting.

The staff recommendations include a wide variety of other changes, including increasing the points awarded for deep housing subsidies on affordable housing projects. Overall, the SGC staff is recommending a 50-50 split in the scoring criteria between GHG emissions reductions and other policy criteria, such as affordable housing and collaboration between transportation and housing projects. Last year, the GHG reduction accounted for 55% of possible points, while policy objectives accounted

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insight
WILLIAM FULTON

The Tuolomne Tactic

Just before Labor Day, Rick Caruso, the savvy real estate developer from Los Angeles, used the "Tuolomne Tactic" to end-run the California Environmental Quality Act in order to get a shopping center approved in Carlsbad.

Which means the score is now one Walmart in Tuolomne County, two football stadiums in L.A., and a shopping center in San Diego County. And that raises a pretty interesting question: How far will developers push the Tuolomne Tactic? And

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inside

Most Significant Planning and Development Bills Fail In Legislature

BY CP&DR STAFF

Only a few significant planning and development bills made to Gov. Jerry Brown's desk by the end of the legislative session on Sept. 11 -- most significantly SB 774, which requires local governments to cut parking ratios for transit-oriented development.

Several major bills did not make it out of the legislature, including:

-- SB 32 (Pavley), which would have created a legislatively enacted greenhouse gas emission reduction target of 80% by 2050. Failure of this law puts more pressure on the California Supreme Court, which will soon rule whether a similar executive order must be considered in environmental review even in the absence of such a law.

-- AB 1335, former Speaker Toni Atkins' attempt to create a permanent revenue source for affordable housing by imposing a fee on real estate transfer taxes.

-- AB 774, which would have slowed down or stopped the SB 743 implementation process for moving from a level of service to a vehicle miles traveled standard under CEQA.

-- SB 113, the redevelopment trailer bill that would have made it more difficult for successor agencies to continue their activities using tax-increment funds.

Brown has until October 11 to sign or veto legislation that has been enrolled.

This list will be periodically updated.

Planning & Zoning

AB 313 (Galgiani) Local government: zoning ordinances: school districts

Current law authorizes the governing board of a school district, by a 2/3 vote of its members, to render a city or county zoning ordinance inapplicable to a proposed use of school district property, except when the proposed use is for nonclassroom facilities. This bill would condition this authorization upon compliance with a notice requirement regarding a schoolsite on agricultural land. Failed

AB 744 (Chau) Planning and zoning: density bonuses

This bill would prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- or very low income units, as specified, and is located within1/2 mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. Enrolled

AB 1478 (Maienschein) Land Use Planning

Makes nonsubstantive changes to a land-use law granting a maximum two-year extension for a city to adopt a general plan if it meets one of six conditions Failed

SB 379 (Jackson) Land use: General Plan: Safety Element

This bill would require cities and counties to include in the next revision to their local hazard mitigation plans a new safety assessment identifying the risks that climate change poses to the local area. Enrolled

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Fair Housing: Talking Past Each Other on Cities and Segregation

BY MARTHA BRIDEGAM

About 80 years too late, the federal government has put real regulatory authority behind the duty of publicly funded agencies to "affirmatively further fair housing". It's being discussed as a genuine chance to desegregate the suburbs.

On July 8 the Department of Housing and Urban Development (HUD) issued its final rule on "Affirmatively Furthering Fair Housing" (AFFH). Under the rule, state and local agencies receiving HUD funds must now do more than passively study barriers to fair housing: they must also make and follow genuine plans to reduce the barriers they describe.

The new HUD rule was backed -- arguably, was made possible -- by the U.S. Supreme Court's unexpectedly liberal ruling of June 25 in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc*. The high court upheld a claim of disparate-impact discrimination against the Texas agency that allocates low-income housing tax credits (LIHTC). In the court's words, the group bringing the claim "alleged the Department has caused continued segregated housing patterns by its disproportionate allocation of the tax credits, granting too many credits for housing in predominantly black inner-city areas and too few in predominantly white suburban neighborhoods."

A lot of public commentary on these good changes, though well meant, is working from a dated model of what suburbs and cities are like. Some serious urban policy writers are talking about suburban desegregation as if it were the only fair housing goal. Meanwhile, there are separate conversations going about urban gentrification and displacement. Really the two issues belong together.

Disadvantaged people are caught in a pincer between old-fashioned suburban snobbery and new urban pricing-out. They are running out of places to go between the two. That's what unites this summer's terrible headlines about homelessness in rich downtowns and about police violence in segregated inner suburbs. That's why fair housing has to mean both urban affordability and suburban diversity.

Recently Kriston Capps wrote for CityLab that the kinds of conflict in the HBO series Show Me A Hero are now appearing "in every city in America". The show depicts a conflict in 1987 suburban Yonkers in which the rhetoric of invasion and "social engineering" was used against low-income housing in Westchester County's largest city.

Certainly that kind of conflict is happening in a lot of cities and suburbs, as the long U.S. history of residential segregation is contested. Suburbs were intended from the start as enclaves of racial, economic and social exclusivity. The archetypal suburb of Levittown was whites-only. Many suburbs remained so until the 1948 case of *Shelley v. Kraemer* banned racially restrictive covenants on property deeds. Unofficial exclusion continued. Richard Rothstein of the Economic Policy Institute recently wrote that segregation is now worse than in 1968 and that recent conflicts in Baltimore and Ferguson are among its consequences.

But suburban desegregation battles are not the only type of conflict over housing justice. The current U.S. housing picture has a new aspect that didn't exist in the 1980s. Investment is returning to inner cities in a tidal reversal of 1960s "white flight". Alan Ehrenhalt calls it the "Great Inversion".

Westchester County has remained exclusive and excluding since the time depicted in Show Me a Hero, but New York City was not then as exclusive as it is now. That difference changes the relationship between suburb and city. Likewise in California, think of pairings like Marin County and San Francisco, or the tonier Westside versus central L.A., or the house-divided demographics of rich, poor and transitioning neighborhoods in Oakland and Berkeley.

This is why conversations about the hopeful new developments in federal desegregation policy are incomplete if they focus only on integrating the suburbs.

The Good News on Federal Desegregation Efforts

An early analysis of the new HUD rule by the deeply experienced National Low-Income Housing Coalition

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(NLIHC) found a lot to welcome. It said the newly required Assessment of Fair Housing (AFH) would push local agencies to analyze barriers to fair housing using HUD-provided data, to include public participation, and to apply well-articulated definitions of "fair housing issues". The agencies must then use their AFH reports to make plans for improvement that must form part of ongoing Consolidated Plans and housing authorities' five-year plans.

Disadvantaged people are caught in a pincer between old-fashioned suburban snobbery and new urban pricing-out.

By contrast, it said the previous "Analysis of Impediments" requirement was so flimsy that "a classic abuse on the part of some jurisdictions was to assert that they were taking actions to overcome impediments to fair housing by placing fair housing posters around public places during Fair Housing Month."

Some housing experts felt the Supreme Court's ruling reflected the more conservative influence of the court's swing voter, Justice Anthony Kennedy, in setting a relatively difficult standard for proof of disparate impact. But it is still cause for celebration in the long battle to desegregate rich Dallas-area neighborhoods by race and income.

A further step toward accountable public spending on housing appeared this summer: the U. S. Government Accountability Office (GAO) recommended that Congress allow HUD to share administration of the LIHTC program with the Internal Revenue Service (IRS). Since housing tax credits were at the core of the Texas fair housing case, this is an area where a more direct HUD role would help fair housing enforcement and might allow more public scrutiny of tax credit compliance processes.

The fair housing task won't be easy, especially when it comes to persuading private landlords to accept Section 8 housing vouchers. But HUD is already trying. A recently issued new rule clarifying portability of Section 8 housing vouchers requires "that all families be provided an explanation of potential housing opportunities in areas with low concentration of low-income families, not just housing in high-poverty census tracts."

The new HUD rule drives strongly enough toward justice that it has been taking mean overheated flak from the right since it was first proposed. Columnist Joy Overbeck's contribution on the "Town Hall" site, "Invasion of the City Dwellers: Coming to Your Neighborhood," is an example. The new rules, she argued, would eviscerate local land use controls, "importing low-income city-dwellers into your community," expressing "naked class envy" and seeking "to turn the suburbs left" with "a new invasion of Democrat voters – among them the low income, no income, welfare-dependent, gang members, homeless, and illegal immigrants".

In other words, the rules are ambitious enough to make bigots nervous, and they might genuinely help poor families.

Certainly many poor families have good reasons to move to richer neighborhoods and not enough chances to do so.

Many writers this summer cited Harvard economists Raj Chetty (who has now moved to Stanford), Nathaniel Hendren and Lawrence Katz for their findings of greater economic success among the children of families brought by the Moving to Opportunity program to what the authors bluntly called "better neighborhoods".

Barbara Sard of the Center for Budget and Policy Priorities wrote in a 2013 comment on the HUD rule at its proposal stage that the great majority of people receiving federal housing assistance do live in areas of concentrated poverty and "only 12 percent of black and 10 percent of Hispanic households used their vouchers to live in predominantly

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white neighborhoods" -- an "extreme result... unlikely to be the product of families' informed choices."

The Great Inversion

Because of the Great Inversion, though, informed choices need to include the right to keep one's housing even when local land sale prices rise, as well as the right to move to other places that present better opportunities.

The new HUD rule is ambitious enough to make bigots nervous, and might genuinely help poor families.

A few popular coastal cities, once dreaded by suburbanites as places of crime and deviance, have lately become the most attractive places to find high-paying jobs, rich resources and convenient public services. Inevitably those attractions have created overwhelming demand for middle-class housing.

The resulting affordability crisis is forcing out existing neighbors who are often low-income people of color. Those vulnerable people who manage to remain end up living as hunkered-down barnacles to keep their irreplaceable current housing. In places like San Francisco's Bayview and Mission Districts, in my own South of Market neighborhood, in Palo Alto's last mobile home park, or in West Oakland, preserving a tenancy or house title can be a fair housing victory -- because if a low-income resident has to move, it will likely be to a poorer, more segregated suburb.

Last year's Causa Justa/Just Cause gentrification report gave a vivid account of displacement from Oakland and San Francisco, including "historically disinvested areas." It described neighborhoods becoming "wealthier and whiter," rents screaming upward, African American and Latino populations declining and losing homeownership.

And it's not over. The new Urban Displacement Project by UC Berkeley's Miriam Zuk and Karen Chapple reports data showing dire existing displacements and also provides "early warning" of more neighborhoods where signs have appeared that vulnerable residents will soon be driven out.

Sadly it's the people now facing displacement who held cities together during the long years of disinvestment. In what Jane Jacobs called "un-slumming," neighbors struggled to preserve community in downtown slums and in redlined, segregated single-family residential districts. Against odds, they founded nonprofits and businesses, tended gardens, created public art, saved old buildings from condemnation, tamed redevelopment agencies, cared for each other. Friends and neighbors literally nursed each other through the opening urban AIDS crisis. Neighbors supporting neighbors created the walkable, livable neighborhoods that investors now value.

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A Double Problem, and More Than One Answer

Disadvantaged people are now trapped in the pincer: between gentrifying cities and excluding suburbs. No wonder the demographic reports say "concentrated poverty" has worsened in certain inner suburbs: the displacement destinations are shrinking.

Brookings Institution researcher Elizabeth Kneebone reported last year that as of 2012, more U.S. people lived below the federal poverty line in suburbs than in "big cities or rural communities," while from 2008 to 2012, "suburban communities experienced the fastest pace of growth in the number of poor residents living in concentrated poverty over this time period." Ferguson, Missouri is a suburb.

So a real fair housing policy has to push back at both sides of the pincer.

Dispersal to the suburbs isn't the only way to fight segregation, and for several reasons it shouldn't be.

Moving doesn't help everyone. A one-way move from a center-city housing project to an "area of opportunity" in a still-prosperous suburb might be a grand, life-expanding possibility for a family of modestly employed, car-owning parents and their school-age children. The same choice might mean anomic hell for an urban retiree who hasn't driven a car in years and who depends for health, safety and home care on a support network of existing neighbors.

Another concern is how HUD's attempt to help disadvantaged people share the good life might interact with the urban-suburban population exchange. What if the resources and private investment that secure the good life are slipping out from under an apparently prosperous suburb just as hopeful new residents arrive from the city to claim their fair share?

There's also the risk of uncritically reviving the "melting pot" idea. In a sense the doctrine of "moving to opportunity" recalls the victim-blaming 1960s "culture of poverty" doctrine. Look farther back and you find mid-century notions of coerced assimilation as benevolence, as in the case of the notorious Dillon Myer, who pressed formerly incarcerated Japanese Americans and Native Americans from reservations to disperse in the cities.

On the urban affordability side, standard prescriptions include calls for generically increasing housing supply; creating incentives to build and maintain affordable units; cushioning existing neighbors against immiseration and expulsion; rehousing people in or near homelessness; palliating homelessness.

That talk overlaps the fair housing conversations on subjects like increasing the density of practically usable and affordable housing ("supply" is an odd word considering the millions of rotting foreclosures). Likewise it overlaps in discussing the segregating effects of exclusive suburban zoning -- and disputing, endlessly, whether urban market-rate construction raises or lowers affordability.

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The overlap isn't very strong, though. If more people were talking about urban displacement and suburban exclusion at the same time, they might find more ways of addressing both at once.

For example, there hasn't been much talk yet about applying the "affirmatively furthering fair housing" toolbox in the urban affordability crisis. The new AFH requirement is carefully characterized as a planning tool but it is intended in part for fair housing agencies that already have enforcement authority. Could those address private evictions and foreclosures that have disparate impacts on disadvantaged people? When publicly funded programs reconfigure urban subsidized or public housing, is it a fair housing issue if they reduce the number of subsidized units or the depth of the subsidies? At least should administrators of housing programs be scrutinizing evictions from their subsidized units for signs of illegal discrimination, including with respect to disability?

There hasn't been much talk yet about applying the "affirmatively furthering fair housing" toolbox in the urban affordability crisis

HUD Officials Understand, But What Will They Do?

The record of public comments and HUD responses on the AFFH final rule shows many affordable housing advocates and HUD staff were seeing the housing picture whole: old-fashioned suburban snobbery, new urban pricing-out, and excluded populations caught between the two.

The exchange was uneasy although knowledgable. For example, Executive Director Alan Greenlee of the Southern California Association of Nonprofit Housing asked in his 2013 comment for the AFFH rule to "accommodate ... programmatic activity that seeks to change the nature of low-income communities through investment instead of encouraging the movement of residents to other communities. In addition, the rule does not seem to adequately safeguard historically low-income communities from the adverse impacts of gentrification. As communities begin to change, it is important to safeguard the financial interests of current residents who would prefer to stay in their communities."

HUD's discussion of comments in its final rule acknowledged and responded to concerns about policy language that emphasized mobility as the key to fairness. Revisions that appeared in the final rule provided warm but less than specific reassurances endorsing "balance" between "place-based" and "mobility" approaches to fairness.

Since the final rule emerged, skepticism from groups such as NLIHC has persisted on how the balance will work out in practice. The National Housing Law Project, which included "balance" concerns in its 2013 regulatory comment, has even pointed out a concern published in the Crain's business journal: that it would be possible to accuse New York City Mayor Bill de Blasio of thwarting fair housing goals through his plan to build 80,000 units of affordable housing, on the grounds that much of the housing would be in areas that are historically low-income though now gentrifying.

Of course in San Francisco, 80,000 units of affordable housing sounds like an impossible miracle.

The rarity of that New York City example is a reminder that a fully effective fair housing policy would take more fair housing subsidy money than there's political will to provide – or a less unequal economy than the one we've backed into.

For now at least we can talk about using the resources we have to retain or expand housing choice wherever it's possible, on both the urban and the suburban sides of the exclusion bind ■

legal digest

Cal Supremes Tackle CEQA Backlog

BY MARTHA BRIDEGAM

The California Supreme Court is finally catching up on its backlog of cases interpreting the California Environmental Quality Act (CEQA). Recently the justices moved along two cases related to the law's climate change implications. The bottom line, however, is that the list is getting longer. The court now has eight CEQA cases pending on issues ranging from how CEQA must account for climate change to whether the law is pre-empted by federal railroad regulation.

The justices heard arguments September 2 on the leading Newhall Ranch case, emphasizing greenhouse gas reduction standards. They've also just scheduled oral argument for October 7 on the "CEQA in Reverse" case, which addresses whether developers must consider the impact of environmental conditions on a project, as well as vice versa.

This is a big change from a year ago. Shorthanded from two retirements, the court had a docket full of big lurking environmental review issues with grants of review dating as far back as 2012. Last year, not counting denials of review, the justices issued one big CEQA opinion in the whole year: *Tuolumne Jobs & Small Business Alliance*, an August 2014 decision allowing the use of ballot measure petitions to pressure local governments into adopting large projects. (See *CP&DR* coverage here.)

But last fall the court got moving on CEQA, bringing old matters forward and taking up new issues involving the law's purview and its application to climate change regulation. An active CEQA lineup was already forming by the time new Justices Mariano-Florentino Cuéllar and Leondra Kruger joined the court in January 2015. Since the Tuolumne decision the court has granted review in five new cases, heard arguments in three old ones, and ruled in two of the three argued matters. Since then, the court has ruled in the major *Berkeley Hillside* case on the stretchiness of categorical exemptions in "unusual circumstances." and remanded another categorical-exemptions case, the Santa Cruz rodeo dispute in *Citizens for Environmental Responsibility v. 14th District Agricultural Association* (Stars of Justice). The court also blocked an attempt to limit mitigation obligations based on budget limitations in *City of San Diego v. Trustees of CSU*.

Traditionally, CEQA has evolved mostly through court rulings, not legislative action. In recent years, Gov. Jerry Brown and legislative leaders have called for major legislative reform of CEQA – but a comprehensive overhaul has proven elusive. So the Supreme Court may be in the position once again to shape CEQA's future in a major way.

Newhall Ranch Oral Argument

The most recent oral argument before the court, on September 2, 2015, was in *Center for Biological Diversity v Dept of Fish and Wildlife (Newhall Ranch)*. It featured sharp debate on air quality goals for the Newhall Ranch development, which would add some 20,000 housing units to the Santa Clarita Valley of northwest Los Angeles County.

The argument was a hot ticket. The courtroom turned away spectators. Well-tailored lawyers filled an overflow viewing room at San Francisco's State Building; one later praised the court as "a lively bench", which it was. The justices pursued difficult points spontaneously, appearing unsatisfied with both sides' attempts to find specific guidance in the state's confusingly framed rules for greenhouse gas (GHG) reduction. (Prior coverage of the issues can be found here.)

Kevin Bundy and John Buse argued for the respondent environmental and community groups, which include the Center for Biological Diversity. They

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argued the developers had picked an "illusory" projection of high-pollution "business as usual" emissions for the project as it might be built, making it too easy for their actual plans to show improvement by comparison.

Arguing for the Newhall Land & Farming Co. was Arthur Scotland, former presiding justice of the Third District, now with the Nielsen, Merksamer firm. He told the court the project would be a "self-sustained community" using green building principles and transportation alternatives to reduce overall impacts from residents who, in moving there, would be "bringing their carbon footprint with them". He argued Newhall had tried to frame a reasonable approach to assessing the significance of the project's GHG emissions in an ill-defined regulatory area ripe for more detailed rulemaking. He said that in choosing a GHG reduction standard for its own individual project, Newhall used the statewide goal in the AB 32 scoping plan, which calls for reducing GHG emissions by 29%, because that provided the most solidly approved methodology available.

Tina Thomas, for the Department of Fish and Wildlife, defended the project's mitigation plan for endangered three-spined sticklebacks in the Santa Clara River. Challengers contend the plan would cause an impermissible "take" by moving the fish out of the way of the project. Justice Carol Corrigan asked whether a "take" of sticklebacks could include "just bothering them." Thomas suggested the 1933 Legislature, in defining "take" to include the verbs, "pursue, catch and capture", would have imagined an act such as "putting a bear in a carnival," not relocating fish as part of a conservation plan.

Days after the argument, the court accepted a slew of amicus briefs from water and transportation agencies. A ruling is due late this fall on the GHG and "take" issues, and on a third question: whether public comments were untimely on an EIR when no state-level comment period was open but a concurrent federal Environmental Impact Statement period was open. Briefs from the case are online at *http://www.courts.ca.gov/32839.htm*. The Nossaman firm, which filed amicus briefs for public agencies in the matter, posted its analysis of the argument at *http://www.jdsupra.com/legalnews/california-supreme-court-ponders-27177/* .

The court has meanwhile accepted a sister case, Friends of the Santa Clara River v. County of Los Angeles (Newhall Land & Farming Co.), on the EIR for the project's Landmark Village phase. It's being held pending the outcome of the case just argued. For background on this and other surrounding Newhall Ranch litigation see *http://www.cp-dr.com/node/3673*.

Next Up

Up next for argument is the big hot potato: *California Building Industry Association v. Bay Area Air Quality Management District*, a.k.a. "CEQA In Reverse", review granted way back in Thanksgiving week 2013. On October 7 in San Francisco the court will consider "under what circumstances, if any, does [CEQA] require an analysis of how existing environmental conditions will impact future residents or users (receptors) of a proposed project?" Bill Fulton discussed the implications of this major case last year at http://www.cp-dr.com/node/3460, including whether CEQA can or should be used to stop building in hazardous places -- for example, on earthquake faults or in areas facing inundation by rising sea levels.

Just one big case on the high court's older CEQA docket has yet to be dusted off: *Friends of the College of San Mateo Gardens v. San Mateo County Community College District*. Review was granted in January 2014 and briefing basically completed a year ago. Opponents allege that when College of San Mateo administrators approved a plan to destroy trees and a popular garden on campus, they should have given the community better warning by preparing a separate Environmental Impact Report (EIR) rather than handling the approval as an addendum tacked on to an existing negative declaration. The court granted review to consider whether modifications to existing projects should be subject to a substantial evidence standard of review, "or is the agency's decision subject to a threshold determination whether the modification of the project constitutes a 'new project altogether,' as a matter of law...?"

The court's newer crop of cases present major climate change regulatory issues among others.

Cleveland National Forest Foundation v San Diego Association of Governments (SANDAG) is the test case on application of Executive Order S-03-05 to greenhouse gas

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reduction in regional transportation plans. The case became more important after the legislature failed to pass SB 32, a bill that would have resolved the issue. The court meanwhile has denied review on the partly parallel case of *Sierra Club v. County of San Diego*; in that matter, San Diego Countyrecently agreed to pay the Sierra Club almost $1 million in attorney's fees. The SANDAG case was in active briefing stages this month.

Sierra Club v. County of Fresno, on the Friant Ranch seniors' development, is an appeal of a detailed Fifth District opinion on issues including wastewater treatment and traffic impacts from a proposed new standalone planned community. The court's formal description of the case is generic: "presents issues concerning the standard and scope of judicial review under [CEQA]." The appellate opinion has an issue in common with the SANDAG case: whether air pollution projections were explained clearly enough in public disclosures for the non-expert public to understand. The cases are not formally interdependent. Seehttp://www.cp-dr.com/node/3504 for background.

Friends of Eel River v. North Coast Railroad Authority addresses the extent to which federal railway regulation may preempt CEQA. The case before the court concerns the proposed restoration to commercial use of a 300-mile disused rail line that would ship lumber, partly along the Eel River, in northern California. It has major implications farther south -- including for the High-Speed Rail environmental impacts litigation. The court's own summary references *Town of Atherton v. California High Speed Rail Authority* (2014) 228 Cal.App.4th 314, a Third District ruling that endorsed a section of the High-Speed Rail environmental review, but sidestepped the question of whether rail plans preempted CEQA by characterizing the state as having conducted CEQA review in order to guide its own actions as a "market participant". Last fall the state Supreme Court denied multiple requests for depublication of the Atherton case by the project sponsors. The Friends of Eel River case, and related federal proceedings, may also affect the ability of local communities to object to the transportation of crude oil by rail, and possibly even local land use controls over processing plants linked to rail lines. See http://www.cp-dr.com/node/3689 for background.

The Newhall Ranch oral argument featured sharp debate on air quality goals for the Newhall Ranch development.

Finally, the court has agreed to review *Banning Ranch Conservancy v. City of Newport Beach*, which addresses CEQA implications of the long-running Banning Ranch development dispute -- a matter most prominently handled in recent years by the Coastal Commission.

The major California Supreme Court cases discussed above are:

Tuolumne Jobs & Small Business Alliance v Superior Court (Wal-Mart Stores), S207173

Berkeley Hillside Preservation v. City of Berkeley (Logan), S201116

Citizens for Environmental Responsibility v. 14th District Agricultural Association (Stars of Justice), S218240

City of San Diego vs Trustees of CSU, S199557

Center for Biological Diversity v Dept of Fish and Wildlife (Newhall Land & Farming Co.), S217763

Friends of the Santa Clara River v. County of Los Angeles (Newhall Land & Farming Co.), S226749

California Building Industry Association v. Bay Area Air Quality Management District, S213478

Friends of the College of San Mateo Gardens v. San Mateo County Community College District, S214061

Cleveland National Forest Foundation v SANDAG, S223603

Sierra Club v. County of Fresno (Friant Ranch), S219783

Friends of Eel River v. North Coast Railroad Authority (Northwestern Pacific RR Co.), S222472

Banning Ranch Conservancy v. City of Newport Beach (Newport Banning Ranch), S227473

Dockets and underlying appellate opinions can be found via case number search at http://www.courts.ca.gov/10029.htm. ■

San Clemente Must Return $10 Million In Parking Impact Fees, Fourth District Rules

BY WILLIAM FULTON

The City of San Clemente must refund $10 million in beach parking impact fees accumulated over a 20-year period because it did not build parking facilities with the money nor make the necessary findings under the Mitigation Fee Act to retain the money for more than five years, the Fourth District Court of Appeal has ruled.

San Clemente imposed the "Beach Parking Impact Fee" of $1,500 per unit in 1989 because it concluded that new residential development in inland area of the city would increase the demand for parking near the beach. The city collected $10 million in the next 20 years but expended only $350,000 to purchase one parcel of property.

In 1995, a city study concluded that the planned new parking facilities were not required even with the additional inland development, and the city reduced the impact fee to $750.

The Mitigation Fee Act (Gov't Code Section 66000 et. seq.) requires a jurisdiction to expend impact fees within five years or make a specified set of findings as to why the money has not been expended.

The findings must (1) identify the agency's purpose in holding the unexpended balance; (2) demonstrate a reasonable relationship between the unexpended balance and the purpose identified when the agency assessed the fee; (3) identify the sources and funding anticipated to complete any incomplete public improvement identified when the fee was established; and (4) designate the approximate date the agency expects that funding to be deposited in the account holding the unexpended balance.

In both 2004 and 2009, the San Clemente City Council received and filed a staff report on the impact fee funds under the Mitigation Fee Act.

Both Orange County Superior Court Judge Thierry Patrick Colaw and the Fourth District panel concluded that the "receive and file" action was not sufficient.

"The City's findings in the 2009 Five-Year Report, made 20 years after it established and began collecting the Beach Parking Impact Fee, fail to demonstrate the City still needs the nearly $10 million in fees and interest it collected to address public beach parking issues created by new development in the noncoastal zone," wrote Justice Richard Aronson for the three-judge Fourth District panel. "The report also fails to show how it will use those funds to address beach parking issues, what improvements the City intends to construct with the funds, the cost of those improvements, whether the City requires more money, and if so, when the City anticipates receiving that money. This is information the Act required, but the City failed to provide."

The city claimed it "was still in the process of identifying specific beach parking improvement projects to be funded" and therefore did not need to provide more detail under the Mitigation Fee Act. But the Fourth District did not buy that argument.

"The City may not rely on findings it made 20 years earlier to justify the original establishment of the Beach Parking Impact Fee, or the findings it made 13 years earlier to justify reducing the amount of the fee," Aronson wrote. "Instead, the Act required the City to make new findings demonstrating a continuing need for beach parking improvements caused by the new development in the noncoastal zone."

In fact, Aronson wrote, the city was required to identify the specific parking facilities it planned to construct when it imposed the fee in 1989.

The Case:

Walker v. City of San Clemente, No. G050552

The Lawyers:

For property owner Daniel Walker: Madison Spach Jr., Spach, Capaldi & Waggaman, mspach@scwlaw.us

For City of San Clemente: Jeffrey Oderman, Rutan & Tucker, JOderman@rutan.com ■

Bill That Killed Redevelopment Does Not Violate Proposition 1A, Third District Rules

BY WILLIAM FULTON

Bill That Killed Redevelopment Does Not Violate Proposition 1A, Third District Rules

By William Fulton

The Third District Court of Appeal has rejected several arguments that the laws eliminating redevelopment violate the California constitution.

In a followup to *California Redevelopment Association v. Matosantos*, 53 Cal. 4th 231 (2011), the California Supreme Court ruling that permitted the elimination of redevelopment agencies, the Third District has ruled that AB 1x 26 -- the law that killed redevelopment -- does not violate 2004's Proposition 1A. The court also rejected a series of other arguments, including the idea that Gov. Jerry Brown's declaration of a fiscal emergency did not warrant the elimination of redevelopment.

The opinion was written by Justice Harry Hull, who was chairman of the board of McDonough Holland & Allen, a leading redevelopment law firm, before he was appointed to the bench. The language of the blunt-spoken opinion seems to suggest that the cities had a weak case all the way around.

The state had argued that all the legal questions raised by the cities were moot because redevelopment agencies have already been abolished. The court rejected that argument and dealt with the city's legal questions one by one.

The cities' major argument was that AB 1x 26 violated Proposition 1A, which "prohibits the legislature from raiding local property tax allocations to help balance the budget". This is a different argument than the cities made in Matosantos, in which they claimed that AB 1x 26 violated Proposition 22, the 2010 initiative that specifically prohibited the movement of redevelopment funds.

The appellate court said that the cities' fundamental question was whether tax-increment revenue survives the dissolution of redevelopment agencies. Writing for at three-judge panel, Justice Hull said the cities were asking the wrong question. The right question, Hull wrote, "is whether Assembly Bill 1X 26 changed the pro rata shares of any taxing entities that receive ad valorem property taxes within the meaning of Proposition 1A."

Giving the cities a lecture in the history of Proposition 1A – which was a legislative compromise that avoided placing a cities-sponsored initiative on the ballot – Hull concluded that the proposition had nothing to do with redevelopment but, rather, "was intended to stop the periodic ERAF shifts of property tax revenues from local agencies to satisfy the State's school funding obligations." He went out of his way to note that successor agencies created by AB 1x 26 are state agencies, not local agencies, and further noted that many local taxing entities have benefited from the end of redevelopment.

"[R]ather than taking funds away from local agencies, which Proposition 1A was intended to halt, Assembly Bill 1X 26 provides local agencies with more money than they otherwise would have received," he wrote.

Hull also rejected or declined to consider several other arguments from the cities, as follows:

* The cities argued that the anti-redevelopment law violated California's home rule doctrine, but since the cities did not address that issue in the trial court, Hull did not take it up on its merits.

* Hull also rejected the cities' argument that the bill was invalid as a "pre-budget act appropriation," even though it went to the Brown's desk five hours before the budget. He agreed with the state's argument that AB 1x 26 constituted an emergency bill because Brown had declared a fiscal emergency because of the projected $25 billion shortfall in the budget. AB 1x 26, Hull wrote, "dissolved redevelopment agencies like the Governor recommended, thereby making revenue available to address the emerging fiscal situation confronting the state."

* The court also rejected the argument that the law violated the single-subject rule because it eliminated redevelopment agencies but reallocated former tax increment funds. "Dissolving redevelopment agencies and reallocating the

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property taxes they would have received to first satisfy their obligations and wind down their affairs … helped alleviate the budget shortfall and balance the budget during a discrete budget crisis."

* The court also rejected the cities' argument that AB 1x 26 was not a budget bill within the meaning of Proposition 25, which eliminated the two-thirds requirement for the legislature to pass a budget. Hull noted that it contained an appropriation of $500,000 to the Department of Finance and therefore qualifies as a budget bill.

* Finally, the cities argued that the bill overreached Brown's authority under the declaration of fiscal emergency. The court was not impressed. Hull noted that the cities had repeatedly argued that "the Legislature could have addressed the declared fiscal emergency in a different matter." However, he added, "[T]hat the Legislature could have proceeded differently does not mean it was required to do so.

The Case:

City of Cerritos v. State of California, No C070844 (August 25, 2015).

The Lawyers:

For City of Cerritos and other plaintiff cities: Jeffrey Oderman, Rutan & Tucker, JOderman@rutan.com.

For amicus curiae League of California Cities: Juliet E. Cox, Goldfarb & Lipman, jcox@goldfarblipman.com.

For defendant State of California: Seth E. Goldstein, deputy attorney general, seth.goldstein@doj.ca.gov. ■

>>> New AHSC Guidelines Call For Higher Caps

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for 30% and 15% went to "project readiness and feasibility".

The SGC staff will provide more specifics at the council's October 15 meeting and the SGC is expected to approve final program guidelines at its December 17 meeting. Written comments will be accepted until October 30 via the official AHSC email address, AHSC@sgc.ca.gov

At the October meeting, the SGC staff is expected to bring forth additional options on four topics:

- Statewide Geographic Distribution of Funds
- Technical Assistance for AHSC Applicants
- Coordination with Metropolitan Planning Organizations
- Alignment of AHSC with the Sustainable Agricultural Lands Conservation program

The SGC staff has recommended that MPO staff should review full AHSC applications based on consistency with each MPO's sustainable communities strategy

The AHSC program is funded with cap-and-trade proceeds paid by polluters. At the end of the first program year in June, the SGC awarded $122 million in grants for infrastructure and development projects. In 2015-16, the AHSC pot is expected to increase to $400 million. However, SGC was criticized for placing strict caps on the amount of funding developers and jurisdictions could receive, shorting rural areas, and not taking regional equity into consideration.

Among the highlights of the proposed guidelines:

- Instead of requiring investment in transit infrastructure, the guidelines would recognize transit infrastructure investments already made – recognizing that in some cases this investment is not required for the proposed development project to work.
- Ten percent of the funds would be set aside for investments in newly defined "Rural Innovation Project Areas," though these funds would roll over into the main program if not enough rural applications are received.
- Projects will receive credit for active transportation, urban greening, green building, energy efficiency, and renewable energy
- Minimum and maximum awards will increase from $500,000 to $1 million and from $15 million to $20 million.
- Individual developers will be subject to a $40 million cap across all their proposals, up from $15 million ■

insight WILLIAM FULTON

>>> The Tuolomne Tactic

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will the Legislature step in with a fix?

Not likely – which means California planning regulation just got even more convoluted than it was before.

In case you missed it, the Tuolomne Tactic is the clever use of the initiative process – approved by the California Supreme Court last year – so that local elected officials approve a development project without placing it on the ballot, reviewing it as an ordinary project would be reviewed, or undergoing an analysis under the California Environmental Quality Act. It's one of those only-in-California perfect storms: Initiatives are not subject to CEQA, but local officials, when confronted with an initiative that has qualified for the ballot, have the option of simply approving a project rather than placing on the ballot.

To be sure, developers have often tried to use the initiative process to push through development projects that face still opposition from local election officials. Almost always, however, the developers have lost – as, for example, C.C. Myers' attempt to change Sacramento County's urban growth boundary to accommodate his project way back in 2000.

Indeed, my own political career began in 2002 when I opposed a similar ballot measure in Ventura, which involved a significant rewrite of the city's general plan in order to accommodate a proposed development project. I opposed it partly because I felt such a major plan rewrite deserved broad public review and discussion. The initiative was overwhelmingly defeated.

In most of these cases, however, the developers went to the ballot because they believed they couldn't get their projects past elected officials. The Tuolomne Tactic involves the opposite: The developer is formally or informally colluding with the elected officials to approve the project faster and with less public review than would otherwise be the case.

It wasn't surprising that Walmart was the first to figure it out. No company is more aggressive in manipulating California laws to its advantage. (Remember the company's attempt to end-run CEQA via initiative in Inglewood?

Nor was it surprising that Inglewood and Carson – two working-class Los Angeles suburbs with a long history of finding creative ways to accommodate sports and entertainment venues – were the first places that the Tuolomne Tactic was used after the Supreme Court ruling. In both cities, the city council quickly approved a new football stadium after the teams used the Tuolomne Tactic to qualify the stadiums for the ballot. Indeed, so quick was the Carson approval that when the Voice of San Diego web site filed a public records request for all of the city's documents on the project, the answer was that no such records existed. (Voice, in disbelief, is now suing Carson.)

So it was a little surprising that a sophisticated developer like Caruso picked a upper-income town that's traditionally been tough on development as his experiment in the Tuolomne Tactic. But Caruso proved very shrewd indeed. He had a 200-acre site, of which 48 were zoned for commercial property. He proposed a shopping center on 27 acres and a nature preserve for the rest. The project was approved – rather than placed on the ballot – at a City Council meeting where 130 speakers testified, half of whom against the project. (Some local citizens have now sued, hoping to force an election after all. Caruso claims rival Westfield is backing the litigation, an allegation Westfield denies.)

The Tuolomne Tactic doesn't give developers a complete end-run around public review – or even review under CEQA. But it does fundamentally change the leverage that local governments have over projects.

Only legislative actions can be placed on the ballot. That means general plan amendments, specific plans, and the like can be voted on – but not individual permits, variances, conditional use permits, and so forth. Individual permits are subject to CEQA, of course – but only in the context of the legislative action that has already occurred. In Carlsbad, the initiative took the form of a 300-page specific plan that contains extremely detailed development standards that the eventual development project will no doubt comply

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>>> The Tuolomne Tactic

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with – since they were written by the developer. (The Carlsbad project still must be approved by the Coastal Commission, which could of course upend everything.)

Caruso claims to have aired everything out in the community and done an environmental assessment every bit as good as an official CEQA environmental impact report. Maybe so. But the point is that Caruso's process was a private process, not a public process, in which the City of Carlsbad played no official role and the planning commission and city council played no role.

Mobility 2035 sets a goal of "no net increase" for per-capita vehicle miles traveled in the City of Los Angeles from 2013 onward.

Which may have been just fine with the Carlsbad City Council. After all, it's unlikely that any developer would risk trying the Tuolomne Tactic without being pretty sure they'd get the city council to adopt the plan rather than place it on the ballot – especially if half the town is against the project. This means, almost inevitably, that after conducting a bunch of unofficial public meetings and writing a specific plan in private, such a developer would have a series of private meetings with city councilmembers to discuss what each of them might do if the initiative came before then in a public meeting. And the councilmembers would have to assure the developer that, when presented with an initiative petition containing the signatures of maybe 15% of the registered voters in the city, they would choose to approve the project with no public review at all. Especially if you think 130 people might show up to speak, with half of them opposed to your project.

This is a pretty sweet deal for a clever developer who can afford to hold a bunch of meetings, hire lawyers to write a plan, hire signature-gatherers to put it on the ballot, and hold a bunch of private meetings with elected officials to take their temperature. I am not sure it's a sweet deal for anybody else.

You'd think the Legislature would want to do something about this – especially since the Tuolomne Tactic is based not on the constitutional right to the initiative, but, rather, the state Elections Code, which is merely a law that the Legislature can amend at any time. I'm not so sure.

The power of the initiative is enshrined in the Constitution. The option of simply adopting the initiative as a piece of legislation is not. It's contained in Section 9214 of the Government Code. And it doesn't apply to the state as a whole. It only applies to cities. If a state initiative qualifies for the ballot, it *must* be voted on – unlike a municipal initiative.

So why wouldn't the Legislature simply change the law so that local initiatives must be voted on just like state initiatives must be?

Well, why would they? Everybody hates CEQA and thinks it's a big hang-up, but nobody can push comprehensive reform through because environmentalists, unions, and even businesses see CEQA's value as blackmail.

The Tuolomne Tactic gives powerful economic interests – football teams and developers, for example – a back-door way to speed things up, without eliminating the ability of other powerful constitutencies to use CEQA as leverage in other situations. And that let's the Legislature off the hook. Everybody is, in a manner of speaking, "happy".

So the Tuolomne Tactic is here to stay – available to those powerful players who can figure out how to use it in select circumstances where they can end-run most of the public review process on a big development project. Welcome to California ■

>>> Most Significant Planning and Development Bills Fail In Legislature

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Transportation & Infrastructure

ACA 4 (Frazier) Local government transportation projects: Special Taxes: Voter Approval

This bill would lower the voter threshold requirements for special taxes by a local government for the purpose of providing funding for transportation projects from 2/3rds approval to 55 percent approval. Failed

AB 338 (Hernandez) Los Angeles County Metropolitan Transportation Authority: Transactions and Use Tax

This bill would authorize the Los Angeles Metropolitan Authority to impose a new transportations transactions and use tax of 0.5% for 30 years if it adopts an expenditure plan and gets voter approval. This would tack on funding to a 0.5% tax that MTA is already authorized to use. Failed

AB 360 (Melendez) Airports: Evaluation

This bill, originally intended to transfer control of the Ontario International Airport from control of the City of Los Angeles to a new Ontario International Airport Authority, was amended to strike that provision, and now will simply allow the California Transportation Commission to take five extra days to complete review for the possibility of creating new airports. Failed

AB 518 (Frazier) Department of Transportation

This bill would delete a requirement that the Department of Transportation compile information and report to the legislature on specific projects in which the department allows local agencies to transfer their own funds for the right to develop transportation projects if they are included in the state transportation improvement program. Failed

AB 779 Transportation: congestion management program (Garcia)

This bill would revise the definition of "infill opportunity zone" to not require that it be within a specified distance of a major transit stop or high-quality transit corridor. The bill would revise the requirements for a congestion management program by removing traffic level of service standards established for a system of highways and roadways as a required element and instead requiring measures of effectiveness for a system of highways and roadways. The bill would also require the program to analyze the relationship between local land use decisions and regional transportation systems, instead of analyzing impacts of the land use decisions on the transportation systems. Failed

AB 1098 (Bloom) Transportation: Congestion Management

Revises congestion management programs to delete the level of service standard in managing traffic and replace it with performance measures including vehicle miles traveled, air emissions, and multi-modal infrastructure. Requires agencies implementing roadway capacity expansions to conduct an analysis of the potential for induced vehicle travel on those particular roadways Failed

SB 508 (Beall) Transportation funds: Transit operators: Pedestrian safety

This bill would revise the Transportation Development Act to apply less-stringent farebox ratio requirements for transit operators to receive funds from a 1/4% sales tax. It also would authorize spending of local funds for pedestrian safety education programs. Enrolled

SB 16 (Beall) Transportation Funding

This bill would create a Road Maintenance and Rehabilitation Account within the State Transportation Fund to address deferred maintenance on state highways by imposing a $0.10 per gallon increase in gasoline taxes, a $35 increase in annual vehicle registration fees, and a $100 vehicle registration fee for zero-emission vehicles. It would also allocate $0.02 of a $0.12 increase in diesel fuel excise taxes to the Trade Corridors Improvement Fund and would increase vehicle license fees to 1% over five years from 0.65%. Last, it would require the Department of Transportation

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to present a plan to increase department efficiency by up to 30% over the 3 years following April 1, 2016. Failed

SB 64 (Liu) California Transportation Plan

Amends California Transportation Plan updates to be completed every five years, emphasizing that the California Transportation Commission will prepare action-oriented and pragmatic recommendations for transportation improvements. Enrolled

SB 374 Local agency design-build projects: transit districts (Hueso)

Would specify that the definition of a local agency authorized to use the design-build method of project delivery includes the San Diego Association of Governments. The bill would define projects, as it pertains to the San Diego Association of Governments, to include development projects adjacent, or physically or functionally related, to transit facilities developed by the association. Enrolled

SB 767 (DeLeón) Los Angeles County Metropolitan Transportation Authority: Transactions and Use Tax

This bill would authorize the Los Angeles Metropolitan Transportation Authority to impose a 0.5% "transportation transactions and use tax" pending voter approval and exempts MTA from the standard limit of 2% on those taxes. Failed

AB 755 (Ridley-Thomas) Sales and Use Taxes: Exemption: Small Businesses: Los Angeles County transit projects

This bill would temporarily exempt certain small businesses in Los Angeles from paying taxes on sold goods if they can prove that they have suffered financially because of construction of the Crenshaw/LAX Transit Corridor Light Rail Line, the Regional Connector Transit Corridor Light Rail Line, or the Westside Subway Extension Light Rail Line. Failed

SBX1 1 Transportation Funding (Beall)

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system and for other specified purposes. Failed

Housing

AB 35 (Chiu / Atkins): Income taxes: Credits: Low-Income Housing: Allocation Increase.

AB 35 would expand the state's Low-Income Housing Tax Credit by $300 million annually. Expansion of the state tax credit will have two positive effects: Developers will not only have access to more funding for building developments where the rents remain affordable, but they will also be able to leverage additional federal funds (a total of $600 million annually). Developers acquire and sell the tax credits, which provides revenue that they cobble together with other funding sources to build developments where rents are kept affordable.This bill would increase the state's Low Income Housing Tax Credit by $300 million to build and rehabilitate affordable housing. Passed Assembly; Pending Referral in Senate

AB 90 (Chau): Federal Housing Trust Fund

Another piece of this year's housing-affordability bill package, Assemblymember Ed Chau's AB 90 creates a framework for how California will spend funds received from the National Housing Trust Fund, which (with the recent lift of the suspension that prevented funding of the trust fund) are expected to begin flowing to California in 2016. Failed

AB 1220 (Harper): Transient Occupancy Taxes: Residential Short-Term Rentals Units

This bill would prohibit cities, counties, or a city and county from levying a transient occupancy tax (TOT) on residential short-term rental units, including single family homes, apartments, condos or other residential real estate in which the public pays for accommodations for less than 90 days. Failed

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AB 668 (Gomez): Property Taxation: Assessment: Affordable Housing

Requires county assessor to assess for taxation contracts with non-profit companies if they have received a welfare exemption for properties intended to be sold to low-income families and if the contract restricts the use of the land for 30 years to owner-occupied housing available at an affordable cost Enrolled

AB 1335 (Atkins) Building Homes and Jobs Act

This bill would enact the Building Homes and Jobs Act. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of $75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property, not to exceed $225. Failed

Environment, Climate Change, CEQA

AB 33 (Quirk): California Global Warming Solutions Act of 2006: Climate Change Advisory Council

This bill would create the Energy Integration Advisory Council to make recommendations of the various strategies necessary for the energy grid to integrate specified annual targets as part of the California Renewables Portfolio Standard Program. Failed

AB 300 (Alejo): Safe Water and Wildlife Protection Act of 2015

The Safe Water and Wildlife Protection Act of 2016 would require the State Water Resources Control Board to establish and coordinate the Algal Bloom Task Force to review the risks and negative impacts of toxic algal blooms and microcystin pollution and then use bond funds from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 to prevent blooms of those toxins in the state. Failed

AB 323 (Olsen): California Environmental Quality Act: Exemption: Roadway Improvement

AB 323 would extend the sunset date for current law that exempts city roadway improvement projects from California Environmental Quality Act requirements if the project is within the existing right-of-way, improves safety and is within a jurisdiction with a population of less than 100,000 people. Chaptered

SB 389 (Berryhill): Environmental Quality: The Sustainable Environmental Protection Act

Reduces the risk of CEQA litigation against projects that comply with high-density, multi-modal land use plans but that could have substantial effects on traffic, as long as the lead agency or developer provides an annual report showing compliance with mitigation measures as dictated by sustainable land-use plans Failed

AB 498 (Levine): Wildlife Conservation: Wildlife Corridors

This bill would provide credits to applicants who invest in "mitigation banks," defined as wetland areas denoted for conservation, in order to protect habitat connectivity for fish and wildlife, and it also makes it impermissible for an agency to deny a permit to a project applicant who does not take voluntary steps to protect a wildlife corridor. Enrolled

AB 641 (Mayes): Expedites and Reduces Cost for Housing Projects.

Streamlines and reduces regulatory burdens for the approval and construction of housing developments by providing an expedited review process under the California Environmental Quality Act. Failed

AB 747 (Eggman): An act to amend Section 65962 of the Government Code, relating to land use. Sacramento-San Joaquin Valley

This bill would prohibit a city or county within the Sacramento-San Joaquin Valley from approving a

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discretionary permit or entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building for a project that is located within a flood hazard zone unless the city or county finds that the construction meets the criteria referenced above. Chaptered

AB 1398 (Wilk): Environmental Quality: The Sustainable Environmental Protection Act

Reduces the risk of CEQA litigation against projects that comply with high-density, multi-modal land use plans but that could have substantial effects on traffic, as long as the lead agency or developer provides an annual report showing compliance with mitigation measures as dictated by sustainable land-use plans Failed

AB 1482 (Gordon): Climate Adaptation

This bill would require coordination between the Natural Resources Agency and the Strategic Growth Council to address climate change by establishing policy guidelines and guidance at the state level to ensure that state investments consider climate change impacts and promote the use of natural systems when developing infrastructure. Failed

AB 1068 (Allen): California Environmental Quality Act: Priority Projects

This bill would allow each member of the state legislature to nominate one project within his or her respective district as a priority project, allowing CEQA streamlining and prohibiting court injunctions unless the court makes specific findings against the project. Failed

AB 1030 (Ridley-Thomas): California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund

This bill would give priority to greenhouse gas-reducing projects that foster creation of Green jobs and that include partnerships with training entities with a proven track record of placing disadvantaged workers in career-track jobs. Failed

AB 1205 (Gomez): The California River Revitalization and Greenway Development Act of 2015

This bill would require the Natural Resources Agency to establish a grant program for developers who build on or near riparian corridors and who assist the state in implementing the California Global Warming Solutions Act of 2006 by rehabilitating the lands adjacent to rivers. The bill would create the CalRIVER Fund in the State Treasury to prioritize funding for projects that provide the greatest level of benefits to the Global Warming Act. Failed

SB 32 (Pavley): California Global Warming Solutions Act of 2006: Emissions Limit

SB 32 would require the state Air Resources Board to approve a statewide greenhouse gas emission limit (equivalent to 80 percent below the 1990 level) to be achieved by 2050. The bill would authorize the state board to adopt interim greenhouse gas emissions level targets to be achieved by 2030 and 2040. Failed

SB 350 Clean Energy and Pollution Reduction Act of 2015

Would require that the amount of electricity generated and sold to retail customers per year from eligible renewable energy resources be increased to 50% by December 31, 2030, as provided. The bill would make other revisions to the RPS Program and to certain other requirements on public utilities and publicly owned electric utilities. This bill contains other related provisions and other existing laws. Failed

SB 471 (Pavley): Water, energy, and reduction of greenhouse gas emissions: planning.(2015-2016)

This bill would include improved water treatment methods within investments that are eligible for funding from the Greenhouse Gas Reduction Fund. Failed

SBX1 11 (Berryhill) Environmental quality: transportation infrastructure

This bill would exempt from these CEQA provisions a

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project that consists of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of existing transportation infrastructure if certain conditions are met, and would require the person undertaking these projects to take certain actions, including providing notice to an affected public agency of the project's exemption. Failed

Economic Development/Redevelopment

AB 2 Community revitalization authority (Alejo and Garcia) This bill would authorize certain local agencies to form a community revitalization authority (authority) within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization. Failed

AB 974 (Bloom): Redevelopment dissolution: Housing projects: Bond Proceeds

This bill would authorize a successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to June 28, 2011, and would require the proceeds from bonds issued between January 1, 2011, and June 28, 2011, to be used only for projects meeting certain requirements established in this bill for projects, to be funded by successor agencies generally, from proceeds of bonds issued during the same period. Failed

SB 107 (Committee on Budget and Fiscal Review) General Subject: Local government

This bill would provide that any action by the Department of Finance, that occurred on or after June 28, 2011, carrying out the department's obligations under the provisions described above constitutes a department action for the preparation, development, or administration of the state budget and is exempt from the Administrative Procedures Act. Failed

SB 608 (Liu): Community Revitalization Authority

This bill allows the creation of new entities called Community Revitalization Investment Authorities. These new authorities would be allowed to invest property-tax increments of consenting local agencies (not including schools) and other available funding in order to improve conditions of blighted areas and encourage economic development. Failed

Miscellaneous

AB 3 (Williams): Isla Vista Community Services District

Create a community services district as a means of self-governance for Isla Vista Passed

AB 52 (Gray; D-Merced): Disability Access Litigation Reform

Seeks to improve access for disabled customers and limit frivolous litigation against businesses for construction-related accessibility claims by providing an opportunity for the businesses to timely resolve any potential violations. Failed

AB 54 (Olsen; R-Modesto): Disability Access Litigation Reform

Seeks to improve access for disabled patrons without harming businesses through frivolous lawsuits by providing businesses with a 60-day right to correct the violation for a claim based upon a constructed related accessibility standard that was changed or modified in the prior three years. Failed

AB 57 (Quirk) Telecommunications: wireless telecommunication facilities

This bill would provide that a collocation or siting application for a wireless telecommunications facility is deemed approved if the city or county fails to approve or disapprove the application within the reasonable time periods specified in applicable decisions of the Federal Communications Commission, all required public

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notices have been provided regarding the application, and the applicant has provided a notice to the city or county that the reasonable time period has lapsed. Enrolled

AB 189 Arts Council - Cultural Districts

This bill would require the Arts Council to establish criteria and guidelines for state-designated cultural districts. Enrolled

AB 201 (Brough): California Public Records Act

Would allow local governments to create local restrictions related to where a registered sex offender can live or be present. Failed

AB 278 (Hernandez): District-based municipal elections

This measure would require that a city, with a population of 100,000 or more, switch to a by-district election system. Failed

SB 302

This bill approved a $24 million appropriation from the state's general fund to transfer to a private investor group who sued the state for killing a deal wherein the group purchased state buildings for $2.3 billion and agreed to lease them back to the state for at least $56 million in rent each year. Chaptered

SCA 5 (Hancock & Mitchell) Local government finance

This measure, for owners of commercial and industrial property subject to reassessment, who also operate a business or businesses on that property, where the increase in assessed value as a result of this measure exceeds 25% compared to the assessed value of the property prior to the operation of this measure, would exempt that portion of the assessed value that exceeds 25% as so described from taxation for a period of 5 years if specified conditions are met. Failed ■