



CEQA: A GOOD LAW IN NEED OF REFORM.

Placer County Continuing Care Retirement Community Delayed by Years due to Frivolous CEQA Litigation

By 2030, the California senior population is projected to double to approximately nine (9) million. The County of Placer's General Plan and related planning documents recognize that there is a growing need for reliable quality senior housing in the County. On January 30, 2008, in response to this need, a project proponent proposed an 858-unit continuing care retirement community and mixed-use commercial project on an infill site identified in a County Community Plan as "probably the best opportunity in north Auburn" to develop a mixed-use project of this nature. The Project is designed to easily enable residents to utilize the public bus and neighborhood electric vehicles (NEVs) to travel to appointments and shopping areas surrounding the infill site.

Over an approximately two-year process, the County's consultants prepared the Draft EIR for the Project. The 2,000 page Draft EIR was released on November 10, 2010 for public review. On March 16, 2011, the County released a Final EIR responding to comments received during the public comment period on the Draft EIR. On August 9, 2011, the County Board of Supervisors unanimously approved the Project.

Despite the detailed environmental review spanning over three years, the County land use plans encouraging this type of development on the site, and unanimous support by the Board of Supervisors, a couple of neighboring residents (who called themselves the "Ad-Hoc Committee") filed a lawsuit challenging the County's approval of the Project pursuant to CEQA. At trial, Ad-Hoc Committee raised one claim: that the EIR should have evaluated the potential environmental impacts that may be caused by Ad-Hoc's concern that the project proponent could go bankrupt before the Project was completed.

The trial court quickly rejected Ad-Hoc Committee's claim, explaining that the Ad-Hoc Committee's challenge was based on a number of baseless assertions. The trial court found the baseless accusations "especially troubling when put forward in a formal legal document by a licensed attorney and counselor at law."

Notwithstanding this resounding defeat at trial, the Ad-Hoc Committee attempted to further delay the Project by filing an appeal from the trial court's decision. Ad-Hoc's opening brief on appeal completely ignored the trial court's Decision and advanced the same arguments the trial court had dismissed. Placer County and the project proponent filed a Motion to Dismiss the Appeal and Motion for Sanctions for Frivolous Appeal. Facing monetary sanctions, Ad-Hoc Committee dismissed the appeal and agreed not to reinstitute a lawsuit challenging the Project in the future.

COST OF CEQA MISUSE:

- Frivolous CEQA lawsuit delays transit-oriented continuing care senior housing community
- Litigation resulted in no changes to project, and added significant costs and approximately 7 years to project timeline

About this series:

The California Environmental Quality Act (CEQA) is an important environmental law. However, today's CEQA is too often misused to stop or delay projects that comply with all applicable environmental laws and standards. "CEQA: A Good Law In Need of Reform" will call attention to the many examples of CEQA misuses, and the consequences on vital projects, our environment and our economy. Visit www.CEQAWorkingGroup.com for more case studies or information about efforts to modernize CEQA.



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While the litigation resulted in no changes to the Project, it resulted in significant costs and delays for the County and project proponent. Approximately 5 ½ years after the Project application was filed and after approximately twenty (20) months of litigation and substantial legal expenses, project proponents are now able to complete the continuing care retirement community and mixed-used project to address the County's growing senior population.

To read the complete caste study, visit www.CEQAWorkingGroup.com/placer