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## **New Comprehensive Analysis of 600 CEQA Lawsuits Shows Law Is Most Often Used Against Transit, Renewable Energy and Housing Projects**

*First-ever analysis of 3 years of CEQA lawsuits demonstrates law frequently abused to stop projects crucial to meeting California's environmental, social equity, and economic policies*

In a first-of-its-kind analysis, the law firm Holland & Knight recently conducted a comprehensive review of more than 600 lawsuits filed under the California Environmental Quality Act (CEQA) at the local, regional or state agency level during a three year study period (2010 - 2012). The analysis, entitled ["In the Name of the Environment: How Litigation Abuse Under the California Environmental Quality Act Undermines California's Environmental, Social Equity and Economic Priorities – and Proposed Reforms to Protect the Environment from CEQA Litigation Abuse,"](#) was based on all CEQA lawsuit petitions provided to the California Attorney General's office over the three year study period.

The findings of this exhaustive analysis run counter to the common perception that CEQA litigation is primarily used to benefit the environment. In fact, the numbers show that CEQA lawsuits most frequently target infill housing projects, public works projects such as transit, renewable energy projects and other critical projects California needs to reduce greenhouse gas emissions. The law is often used for non-environmental reasons and in ways that actually harm important environmental objectives, like building renewable energy, transit and infill housing.

### **Executive Summary:**

- **The most common residential housing projects targeted were higher-density, transit-oriented housing projects.**

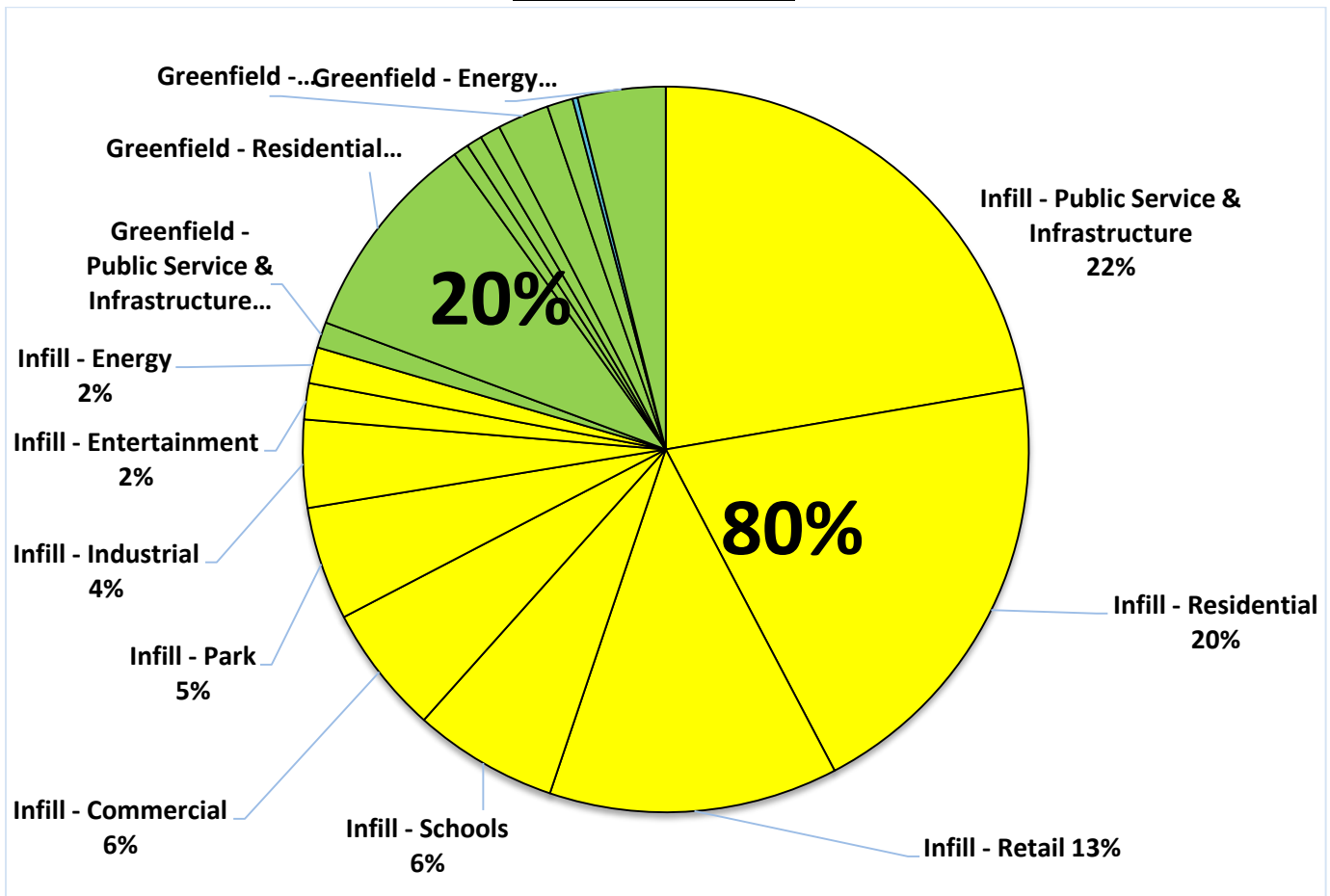
The most frequently challenged category of private sector project was housing (21%), and nearly half (45%) of these CEQA housing lawsuits challenged the types of affordable housing and other multi-family (apartment, condominium and mixed use) projects that are critically needed to address housing affordability, are required by state housing and general plans laws, are subsidized by state or federal taxpayer funding, and are key to achieving the state's regional greenhouse gas reduction targets for the land use and transportation sectors.

(Continued)

- **Infill projects represent 80% of all CEQA lawsuits.**

A common assertion by those who defend CEQA’s status quo is that CEQA litigation mostly combats “sprawl” development that causes longer commutes, destroys farms and wildlands, and draws financial and human capital away from urban areas. But CEQA litigation overwhelmingly targets “infill” development that accommodates population and economic growth that would otherwise spill into undeveloped exurban areas. Of the cases that could be categorized as either “greenfield” or “infill,” 80% were filed against infill projects including multifamily housing; urban park improvements; and commercial, retail and light industrial projects; while only 20% challenged projects in undeveloped, greenfield locations. Public and private infill projects in urbanized areas were four times as likely to be sued than “greenfield” projects in undeveloped lands outside of cities. The Study also includes additional information provided by the United States Environmental Protection Agency that California has contained “sprawl” development, and Census Bureau and other data confirming that California communities are already among the most dense in the United States.

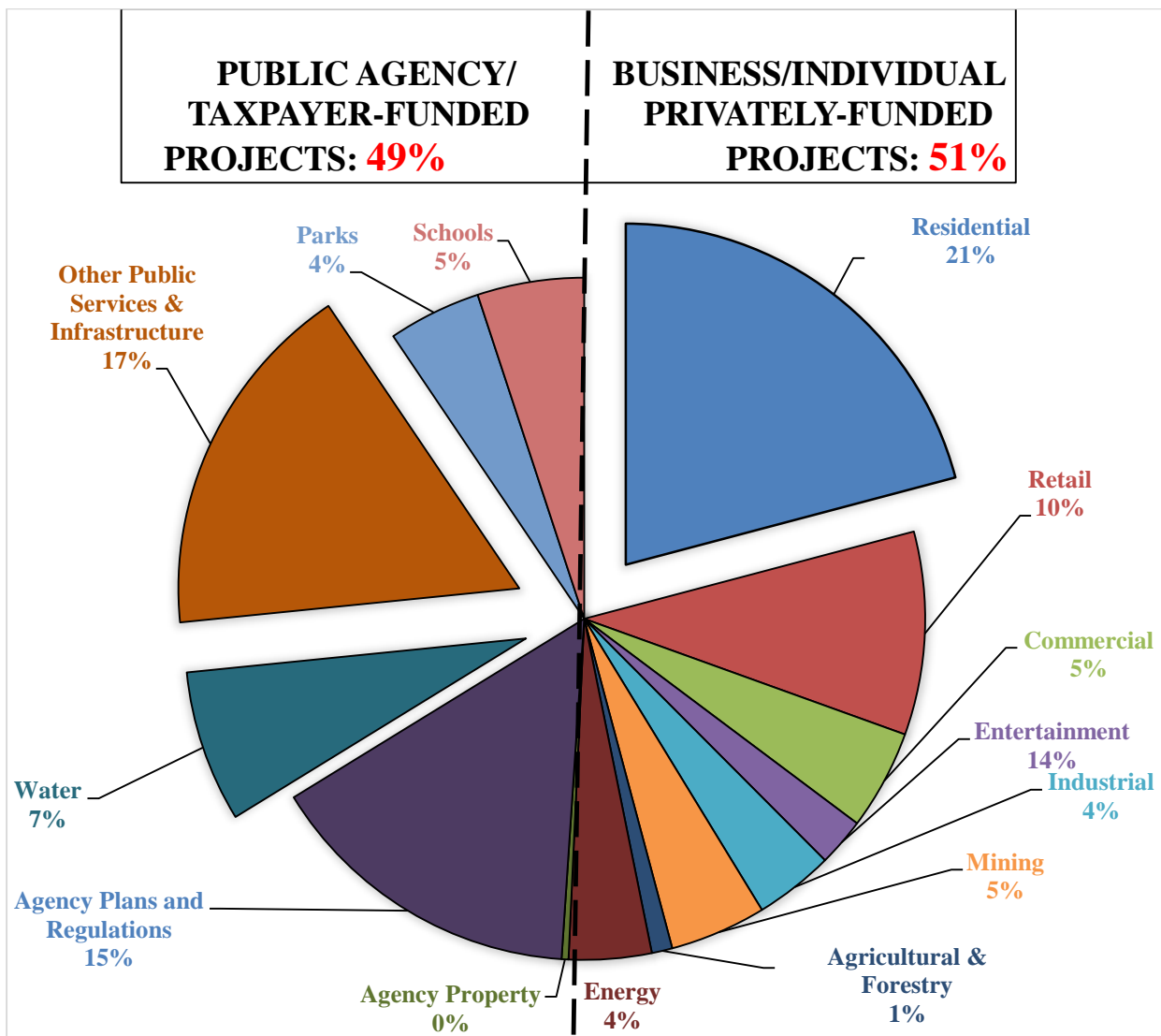
### **Infill vs. Greenfield**



- **Half of lawsuits are filed against public projects, and public infrastructure projects are sued most often, with public transit the most frequent infrastructure target.**

Although the political debate around CEQA is persistently framed by many as a battle between “business” and “enviros,” the data proves that nearly half of CEQA lawsuits target agency projects for which there is no private sector sponsor at all. Nearly half of the projects petitioned (just over 49%) were funded using taxpayer dollars or charitable, non-profit sources. These projects include schools, hospitals, infrastructure and other important public works projects. The most frequent litigation target in the infrastructure category is public transit, the same projects which reduce per capita greenhouse gas emissions and other air pollutants by providing an alternative to cars.

### **Public vs. Private Projects**



- **CEQA lawsuits are frequently filed against projects designed to achieve critical environmental objectives.**

For utility/industrial projects, the top target of CEQA lawsuits were new and retrofitted clean energy projects like solar plants – and for infrastructure projects, the top target of CEQA lawsuits were transit projects.

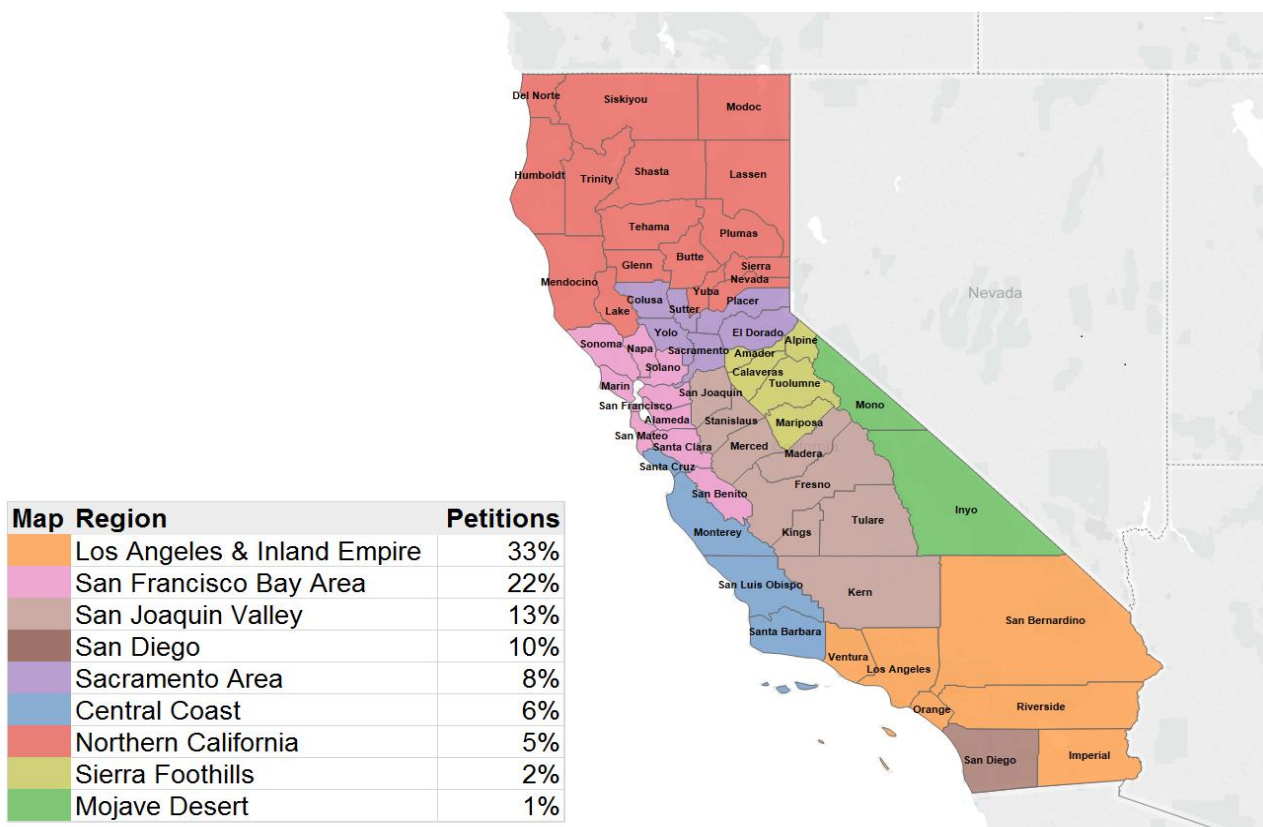
- **CEQA lawsuits are frequently filed against projects that have already completed an Environmental Impact Report.**

This is especially true for urban projects and plans, with some challenged projects emerging from a dozen or more CEQA lawsuits filed over a period of nearly 20 years.

- **Urban areas see the most projects sued.**

Sixty-five percent (65%) of the lawsuits were filed in the Los Angeles, San Francisco and San Diego areas, the three most populated and highly urban regions. Disproportionately, 13% of these suits were filed in the less urban, San Joaquin area.

### **Where Projects are Challenged in California**



- **Anonymous groups file the most CEQA petitions.**

CEQA litigation is only rarely used by well-known national and statewide environmental advocacy groups (only 13% of cases). Nearly 2/3 of the petitioners (64%) during the three year span were individuals or local/regional organizations, which do not need to disclose either the existence or interests of “members” and individuals. Follow-up investigations into these anonymous “associations” revealed widespread abuse of CEQA for non-environmental purposes by business competitors, labor unions, “greenmail” lawyers seeking financial settlements, and Not-In-My-Backyard (NIMBY) groups on the losing end of votes by elected officials or residents. CEQA does not require disclosure of those filing lawsuits and this has led to pop-up plaintiffs or ‘local organizations’ that serve as petitioners for lawsuits filed for strategic purposes. These groups could be serving as petitioners for “bounty hunter” lawyers that receive CEQA fee and expense awards, or could be fronts for competitors or unions. "Bounty hunter" lawyers have been reported to file CEQA lawsuits on behalf of previously-unknown organizations with no known individual members or other community identity.

- **CEQA lawsuits are often filed for non-environmental reasons by NIMBYs, business competitors and unions.**

While many businesses and unions file CEQA lawsuits anonymously or under the guise of newly-formed or innocuous sounding groups, CEQA is often used by these interests for non-environmental reasons. The greatest number of project opponents, especially for infill projects, were NIMBYs (Not in My Back Yard) petitioners. The NIMBY individuals or groups that sue using CEQA tend to be more affluent than the people who stand to benefit from the school, park, affordable housing or other needed project.

**For the Full Study, please visit:**

[http://issuu.com/hollandknight/docs/ceqa\\_litigation\\_abuseissuu?e=16627326/14197714](http://issuu.com/hollandknight/docs/ceqa_litigation_abuseissuu?e=16627326/14197714)