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Public Law Update – Appeals Court Holds Los Angeles Properly Certified an EIR While Partly Finding it Exempt from CEQA

In *Westside Los Angeles Neighbors Network v. City of Los Angeles*, an appeals court confirmed a trial court's decision that denied a nonprofit's California Environmental Quality Act ("CEQA") challenge to Los Angeles's Westside Mobility Plan and the City's decision to certify an Environmental Impact Report for the Plan while at the same time finding part of it exempt from CEQA.

The appeals court's ruling is important because it (1) finds that public agencies may certify Environmental Impact Reports ("EIR") for multi-component projects, while simultaneously finding one of the project's constituent parts exempt from CEQA; and (2) that a non-elected planning commission still has the authority to certify a final EIR for a multi-component project even if the planning commission only has the authority to adopt part of the project if the components are related.

Factual Background

CEQA requires public agencies—like the City of Los Angeles—to consider the environmental impacts of their activities and prepare an EIR for any project that may have a significant effect on the environment. The purpose of an EIR is to inform decision makers and the public of the potential environmental impacts of a project, identify feasible alternatives to the project, and measures to mitigate or avoid the adverse effects of the project.

Los Angeles's Westside Mobility Plan ("Mobility Plan") was intended to address congestion and mobility issues in west Los Angeles. The Mobility Plan consists of two parts: a Streetscape Plan and Fee Program Update. The Streetscape Plan set guidelines and standards for street trees, landscaping, sidewalk paving, street furniture, street lighting, bus zone amenities, pedestrian crossings, and other improvements. The Fee Program Updates revised the transportation impact fees which Los Angeles had previously adopted through its specific plans and which are intended to address the transportation impacts of new development in west Los Angeles. Los Angeles published an EIR for the Mobility Plan, but asserted that it only applied to the Fee Program Updates as the Streetscape Plan was not subject to CEQA.

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Trial Court Decision

The Westside Los Angeles Neighbors Network ("Neighbors Network") filed a petition for writ of mandate asking a court to invalidate the Mobility Plan for failing to comply with CEQA. The trial court denied the petition finding that the EIR was sufficient and the Streetscape Plan was categorically exempt from CEQA. Neighbors Network appealed.

Appeals Court Decision

The appeals court reached the same conclusion that the trial court did: that the Mobility Plan was lawfully adopted and that the Streetscape Plan was exempt from CEQA.

Neighbors Network offered three arguments for why the appeals court should overturn the trial court's decision. First, Neighbors Network argued that the City failed to follow CEQA by allowing the City's Planning Commission to certify the EIR. The appeals court rejected this argument because while the CEQA Guidelines specifically mandate that the decision-making body of a public agency, such as City Council, cannot delegate certain functions, such as reviewing a final EIR or approving a negative declaration, that those powers can be delegated to a non-elected planning commission if their decision is appealable. Since that is exactly what happened in this case, the appeals court rejected Neighbors Network's argument.

The appeal court's reasoning was not altered by the fact that the Mobility Plan is a multi-component project (made up of the Streetscape Plan and Fee Update). For EIRs approved by planning commissions for multi-component projects, the CEQA Guidelines require courts to determine whether a planning commission can make a decision that commits the City to a definite course of action for the *whole* project, even if the *whole* project is subject to multiple discretionary approvals. The appeals court determined that Los Angeles' Planning Commission had the authority to approve the Streetscape Plan, which gave it the authority to approve the final EIR for the entire Mobility Plan.

Second, Neighbors Network argued that Los Angeles erroneously determined the Streetscape Plan to be categorically exempt from CEQA. The appeals court rejected this argument, finding that the Streetscape Plan was categorically exempt under CEQA Guidelines section 15301, which exempts projects that alter existing public or private structures and involve limited expansion of use. The appeals court determined that this exemption fit the Streetscape Plan, since the Streetscape Plan sets standards and guidelines for the aesthetics, functionality, and safety of streets, but does not expand the traffic capacity on those streets. The appeals court also rejected Neighbors Network argument that because there will be significant impacts to the environment—as acknowledged in the Statement of Overriding

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Considerations—that these impacts were related to the Streetscape Plan.

Since the appeals court found that the Streetscape Plan is exempt under CEQA Guidelines section 15301, it did not address the City's claim that Streetscape Plan is also categorically exempt from CEQA under other CEQA Guidelines sections.

Third, Neighbors Network argued that the final EIR was legally inadequate because it insufficiently discussed the Fee Program Updates' growth-inducing impacts and a City mitigation measure. The appeals court rejected this argument and found that the City had properly discussed Neighbors Network's comments on the draft EIR related to these issues and that the Mobility Plan properly included a discussion of mitigation measures.

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