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August 10, 2012

California Land Use & Development Law Report

Decision on use of Future CEQA Baseline to be Reviewed by the Supreme Court

The California Supreme Court has decided to review the [court of appeal decision](#) in the Los Angeles Metro Line EIR case, the widely publicized decision in which the court of appeal upheld an EIR that used projected future conditions as the baseline for gauging the project's environmental impacts. The court of appeal decision is the latest in a series dealing with the question whether CEQA bars use of future conditions, rather than conditions that exist when the EIR is prepared, for measuring a project's impacts. The litigation involves the Exposition Metro Line Construction Authority's EIR for a new light rail line from downtown Los Angeles to Santa Monica. For traffic and air quality impacts, the EIR used conditions projected for 2030 as the baseline for assessing environmental impacts with and without the project. The court of appeal upheld the EIR, ruling that while hypothetical future conditions cannot be used as the baseline for analysis, in appropriate circumstances it may be appropriate to use realistic projections of future conditions as the baseline. On August 10, the California Supreme Court granted the project opponents' petition for review of the decision. The court's web site describes the case as involving the question whether a public agency is "required to evaluate a project's potential traffic and other impacts using a baseline consisting of the existing physical conditions in the affected area during the period of environmental review, or may an agency elect to evaluate the impacts of a project only against projected future conditions?"

A decision by the court will provide critical guidance for local agencies, project sponsors and reviewing courts on how to define the baseline for purposes of evaluating a project's environmental effects.

[Neighbors for Smart Rail v Exposition Metro Line Construction Authority](#), Sup. Ct. No S202828, review granted August 8, 2012.

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