

CEQA Review Not Required for Ballot Measure Requiring Competitive Bidding for City's Solid Waste Contracts

Measures put on the ballot by a city council are not automatically exempt from CEQA even though they must be approved or disapproved by the voters. As shown in a recent appellate court decision, however, CEQA review is not required for a ballot measure that does not commit the city to a "project" as that term is defined by CEQA.

The City of Monterey Park ballot measure was designed to require competitive bidding for the city's solid waste franchise contracts and to allow more than one trash service provider to be selected. The city council put the measure on the ballot without considering whether CEQA might apply. That drew a lawsuit from the measure's opponents claiming that the environmental impacts that might result if the city replaced its sole service provider with multiple providers should have been examined. The court had little difficulty in concluding the measure was not a "project" under CEQA: The measure was covered by the CEQA Guideline which provides that CEQA does not apply to government fiscal activities that do not commit the agency to a specific project that will have a significant effect on the environment. The court first found the competitive bidding process is a fiscal activity which, by promoting competition, and eliminating favoritism, fraud and corruption in public contract awards, conserves scarce revenues. It also found the measure did not commit the city to a specific course of action. There was no way to know what companies might bid on future contracts or what the results of the bidding process might be. As a result, any attempt to analyze the environmental impacts that might result once decisions on service providers are made would have been meaningless. [Chung v. City of Monterey Park](#), B233859 (2nd. Dist. Oct. 23, 2012)

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