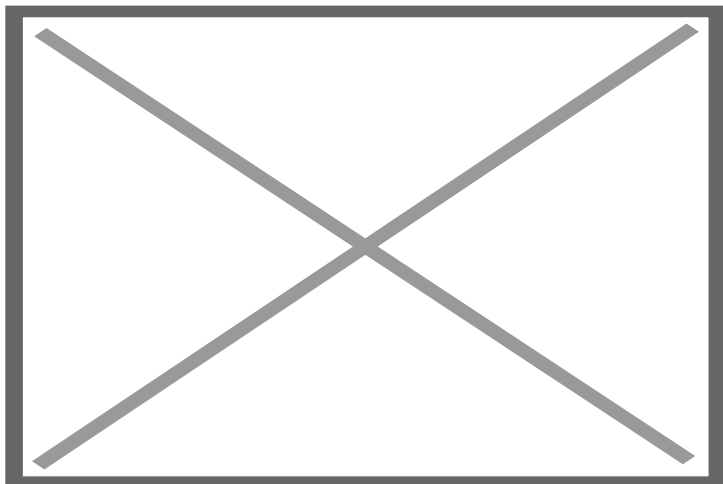


CEQA YEAR IN REVIEW -- 2018



A Summary of Published Appellate Opinions Under the California Environmental Quality Act The California Supreme Court issued its only CEQA opinion of 2018 at the end of the year. In *Sierra Club v. County of Fresno*, the court rejected a standard air quality impact analysis in the EIR for a typical mixed-use development project. The court declined to apply the substantial evidence standard of review to the EIR's discussion of the impact. Instead, the court independently decided that the EIR's discussion did not include "detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." In another case focused on air quality, a court of appeal upheld most aspects of an EIR for a new railyard and agreed that the project would reduce overall truck emissions, but it held that the EIR did not include sufficient information describing the impact of truck emissions along a four-mile truck route that adjoined residences and schools. Several other 2018 decisions addressed whether comments by members of the public amounted to substantial evidence of significant environmental impacts, which would preclude the lead agency from adopting a negative declaration rather than preparing an EIR. Two of these opinions concerned projects in designated historic districts. These courts delivered a clear message that residents' statements that the mass, density, height, or materials of a proposed project are inconsistent with a historic district—as opposed to mere expressions of dislike of a project's design—can constitute substantial evidence of a significant aesthetic impact on the historic district, necessitating an EIR. In one of these cases, the court also found that observations of traffic conditions by nearby residents could prevail over both a traffic expert's report and a city's established traffic significance thresholds. In a third case, however, the court examined project opponents' attempt to apply the noise analysis from one project to a different project in a different location, concluded that their statements did not constitute substantial evidence that the second project would cause a significant noise impact, and upheld the project's negative declaration. Finally, the *Golden Door Properties* case illustrates the difficulties that lead agencies continue to face in developing quantitative thresholds for significant greenhouse gas impacts. The court rejected San Diego County's Guidance Document for analyzing GHG impacts, finding a violation of the rule that a lead agency's adoption of a threshold of significance must be adopted by ordinance, resolution, rule, or regulation and must be developed through a public review process. Substantively, the court held that substantial evidence did not support the Guidance Document's efficiency metric of 4.9 metric tons of carbon dioxide-equivalent per service population per year, because the evidence did not show why use of statewide GHG reduction levels would properly be used in the specific context of San Diego County. [READ THE FULL](#)

REPORT

Topics

CEQA

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)