

[Blogs](#)

August 13, 2019

California Land Use & Development Law Report

Location Exception to CEQA's Categorical Exemptions Applies Only to Designated Environmental Resources Affected by The Project

The location exception to CEQA's categorical exemptions does not apply to earthquake and landslide hazard zones, as they are not "environmental resources" that would be affected by a project. *Berkeley Hills Watershed Coalition v. City of Berkeley*, 31 Cal.App.5th 880 (1st Dist. 2019). The City of Berkeley approved construction of three single-family homes in the Berkeley Hills. The city found the projects exempt from CEQA under the Class 3 exemption, which applies to the "construction...of limited numbers of new, small...structures," including "up to three single-family residences" in "urbanized areas." (CEQA Guidelines, § 15303). Plaintiffs Berkeley Hills Watershed Coalition and Center for Environmental Structure sued to challenge the city's approvals claiming the exemption was barred by the "location" exception to the categorical exemptions. The location exception applies if "the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." (Guidelines, § 15300.2(a)) Plaintiffs argued that, because the projects were located in an Alquist-Priolo Earthquake Fault Zone and mapped by the California Geologic Survey as a potential earthquake-induced landslide area, the projects would affect environmental resources of hazardous concern. The superior court ruled for the city and the appellate court upheld that decision. The court of appeal held that the location exception does not apply to earthquake or landslide hazard zones because they are not "environmental resources," relying on the dictionary definition of the term "resource" — a "natural source of wealth or revenue," or a "natural feature or phenomenon that enhances the quality of human life." The Seismic Hazards Mapping Act and the Alquist-Priolo Earthquake Fault Zoning Act were not enacted to protect a sensitive environmental resource, but to protect human safety and to prevent economic loss. Further, the court noted that the purpose of CEQA is to analyze a project's impact on the environment, not the impact of environmental conditions on the project or its residents. While the plaintiffs might have shown the environment might risk harm to the projects, they failed to show that the projects might risk harm to the environment.

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](#)