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First District Invalidates EIR for UC Berkeley's Student Housing Project at People's Park for Failure to Analyze Alternative Locations and Noise Impacts



The First Appellate District held that the Regents of the University of California failed to comply with CEQA in certifying the project EIR for its student housing project at People's Park. *Make UC a Good Neighbor v. Regents of University of Cal.* (2023 WL 2205638, Feb. 24, 2023). Specifically, the court ruled that the Regents failed to provide a valid reason for deciding not to analyze alternative locations for the proposed housing project and failed to analyze potential noise impacts from loud student parties. The court's order requires the Regents to fix the errors in the EIR before the project can move forward.



The Regents certified the EIR and approved the People's Park student housing project (Housing Project No. 2) in 2021. The petitioner, Make UC a Good Neighbor ("Good Neighbor"), challenged the approvals, alleging multiple CEQA violations and requesting a stay pending resolution of the appeal, which the court granted.

### **Alternatives to the Long-Range Development Plan**

Good Neighbor argued that the Regents violated CEQA by failing to analyze an alternative to the long-range development plan ("LRDP") (a high-level planning document that guides each UC campus's decisions on land and infrastructure development) that would limit student enrollment. The court disagreed, finding that Good Neighbor did not meet its burden of demonstrating that the range of alternatives for the LRDP was manifestly unreasonable. The court reasoned that the Regents analyzed a sufficient range of alternatives that were tailored to the plan's limited purpose and were not required to consider alternatives that would change the nature of the project.

### **Alternative Locations to People's Park**

Good Neighbor argued that the EIR failed to analyze locations other than People's Park for the housing project. The court stated that an analysis of alternative sites is not required in all cases, but the Regents failed to provide a valid reason in the EIR for declining to analyze any alternative locations, as required in CEQA Guidelines, section 15126.6(c) and (f)(2)(B). The court rejected the EIR's reasons for rejecting an alternative location proposal, which were that the alternative site would result in fewer new beds or require multiple sites and that an alternative site would not avoid adverse historical impacts. These reasons, the court found, were insufficiently vague and not supported by the record.

### **Piecemealing**

Good Neighbor argued that the Regents improperly "piecemealed" the LRDP by limiting the scope geographically to the campus and neighboring properties and excluding several properties further away. The court rejected this argument, holding the Regents' decision to develop a coherent vision for the campus through the LRDP while developing separate plans for more remote properties was consistent with the CEQA Guidelines, section 15168(a)(1).

### **Noise Impact Analysis**

Good Neighbor argued that the EIR failed to analyze potential noise impacts from loud student parties in residential areas near the campus. The Regents argued that it was not required to analyze noise from student parties because it was "speculative to assume that an addition of students would generate substantial late night noise impacts simply because they are students." The court rejected this argument, reasoning that the record indicated that noise from student parties in Berkeley's residential neighborhoods near the campus was a longstanding problem and therefore "foreseeable." Clarifying that "stereotypes, prejudice, and biased assumptions about people served by a CEQA Project—such as a church, school, gym, or housing project—are not substantial evidence that can support a CEQA claim under the fair argument standard," the court held that "proper evidence" remained to support that noise from loud student parties was a potential impact and that such noise analysis must be included in the EIR.

### **Population Growth and Displacement Analysis**

Good Neighbor contended that the EIR violated CEQA because it failed to address the impacts of population growth and the consequent displacement of existing residents. The court rejected this argument. It held that the record was insufficient to establish the chain of causation necessary to support Good Neighbor's displacement theory, which was that population growth would lead to displacement of residents as a result of a housing shortage.

Notably, the court backtracked from its conclusion in the [draft tentative opinion](#), issued before oral argument took place, that the EIR was required to, and had failed to, consider whether displacement would trigger social or economic consequences that could cause significant environmental impacts.

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