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September 08, 2023

Court Approves EIR's Climate Change Analysis for Community Master Plan



The Third District Court of Appeal has held that Sacramento County's environmental impact report for a master planned community complied with CEQA's requirements for analysis of greenhouse gas emissions.

Tsakopoulos Investments, LLC v. County of Sacramento, 95 Cal.App.5th 280 (2023). Describing in detail the County's analysis, the court held that substantial evidence – encompassing both County-specific and land use-specific data – supported the County's choice of numeric significance thresholds for GHG emissions.

The project the County approved included more than 3,500 residential units, an environmental education campus, a research and development park, two schools, and 21 acres of commercial-retail uses, as well as park, community center and open space uses, on an 848-acre site.

The plaintiff claimed that the methodology the County used to identify significance thresholds for the project's GHG emissions was the same as the methodology rejected in two earlier cases: *Center for Biological Diversity v. Department of Fish & Wildlife*, 62 Cal.4th 204 (2015), and *Golden Door Properties, LLC v. County of San Diego*, 27 Cal.App.5th 892 (2018).

In *Center for Biological Diversity*, the EIR used the Air Resources Board's 2008 Scoping Plan target of a 29 percent statewide reduction in business-as-usual GHG emissions as its significance threshold for a development project. The California Supreme Court disapproved this significance threshold, finding no substantial evidence in the project record that the state's 29 percent statewide GHG reduction goal was "the same for an individual project as for the entire state population and economy."

In *Golden Door*, the EIR applied a uniform significance threshold of 4.9 metric tons of CO₂ equivalent per person per year. Because the County based this threshold on statewide rather than local data, and treated all land uses as the same, the court held that this EIR's GHG significance threshold, like that rejected in *Center for Biological Diversity*, was not supported by substantial evidence.

The court in *Tsakopoulos* held that the County's GHG thresholds of significance differed from those invalidated in the earlier cases. For its general plan update in 2011, to identify its share of the state's 2020 GHG reduction goals, the County used specific countywide rather than statewide data to model the county's existing GHG emissions; divided those emissions into transportation, residential, commercial and industrial sectors, among others; applied the same percentages to those sectors in the future; and set sector-by-sector thresholds. For the master plan project, the County updated its thresholds to account for the then-new 2017 Scoping Plan. Again using countywide and sector-specific data rather than statewide data, the project EIR identified significance thresholds of 0.73 metric tons of CO₂e per capita per year for residential; 4.28 metric tons per 1,000 square feet for commercial and industrial; and 1.47 metric tons per capita for transportation. Rather than make assumptions based on statewide information, as in the cases on which the plaintiff relied, here the County supported its significance thresholds with relevant and substantial evidence.

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