

They Shot, But Did We Score With 2013's CEQA Reform Bill? - New Law Offers Potential Benefits to Transit Oriented Infill Developments and Protections for the Sacramento Kings Basketball Arena

10.14.2013

New Law Offers Potential Benefits to Transit Oriented Infill Developments and Protections for the Sacramento Kings Basketball Arena

With little time left on the legislative shot clock, the legislature and governor took a final shot at the California Environmental Quality Act (CEQA) reform game for 2013. Whether the recently signed Senate Bill (SB) 743 qualifies as an airball or a victorious shot depends on your expectations and how the State implements the legislation. Regardless, those in the real estate business should know about the new law's provisions relating to transit oriented infill developments and traffic analysis.

Originally intended to benefit only the Sacramento Kings' new downtown arena, SB 743 changed late in the legislative game. All basketball analogies aside, SB 743 should benefit infill development projects located within one-half mile of certain existing or proposed major transit stops. For qualifying residential, mixed-use and commercial developments, the bill eliminates the consideration of parking and aesthetics as CEQA issues. Those issues will still require review under most local agency discretionary permits, but removing aesthetics and parking from the world of CEQA reduces entitlement risk by eliminating two fertile grounds for project opposition.

SB 743 also requires the State to develop new CEQA guidelines for evaluating traffic impacts. By the middle to end of 2014, these new traffic thresholds could prohibit the use of traffic congestion formulas based on criteria like level of service. The new traffic rules will instead focus on the reduction of greenhouse gas emissions, development of multimodal transportation networks and a diversity of land uses. We will all have to wait and see if SB 743 establishes a broader and more meaningful method of evaluating traffic impacts. Further, while the law gives the state the discretion to apply the standard more broadly, the rules may only apply to projects in areas around qualifying transit stops.

Finally, SB 743 establishes a new CEQA exemption. In jurisdictions with adopted Sustainable Community Strategies or Alternative Planning Strategies as required by SB 375 (the Sustainable Communities and Climate Protection Act of 2008), the new law offers a more readily achievable path to a CEQA exemption. Specifically, this exemption could become a valuable tool for communities to fast track infill development projects located within qualifying Specific Plans.

Anyone interested in real estate development, particularly of the infill variety, should take a close look at SB 743 and its implementing measures. Although some reason for optimism exists, we will not know for a while whether the CEQA reform shot the legislature took with SB 743 is a game loser or a game changer.

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Practice Areas

Real Estate and Land Use