



State Action Needed to Improve CEQA

The California Environmental Quality Act (CEQA) – must be improved to *enhance* California’s economic competitiveness and stimulate job creation while continuing to provide the environmental benefits and protection of the environment, sensitive habitat, open space that provide for a high quality of life.

CEQA and its application today impede the protection of the environment. The original intent of the law to protect the environment and mitigate significant impacts is often lost in a process that tends to cause uncertainty and delays, adding costs to projects and ultimately the cost of housing. Instead of protecting the environment, CEQA as applied often reduces the size of projects in locations where the land would be efficiently used and habitat and open space would be preserved as a consequence. A specific relationship to a project and its actual environmental impact should be the basis for CEQA.

The Case for CEQA Reform

The unintended consequence of CEQA being used to prevent or reduce the number of housing units from being produced and prevent commercial developments from being approved has a direct impact on the economic competitiveness of the Bay Area. The shortage of housing produced compared to the need continues to make housing unaffordable to the vast majority of Bay Area residence. The Bay Area under-produced housing by 13% or 19,670 in the period 1999 – 2003 based on the Regional Housing Needs Determination. Meanwhile industry sectors seeking to expand in the Bay Area experience delays in approval as CEQA is applied.

On a project-by-project basis delays and mitigation requirements result in huge costs to the state’s citizens without really providing the environmental benefits originally intended. The scope of environmental impacts and the mitigation measures that must be provided are uncertain. Projects and developments are assessed for their environmental impact on “uncertain” standards. Appeals can be made to voluminous Environmental Impact Reports to various federal, state, and local government entities because particular mitigation measures were not considered for the actual project or for developments in proximity to the project under consideration. State courts can overturn CEQA documents that have been developed over thousands of hours with the finest expertise. The time-frame for when decisions must be finalized on an environmental review extend over months and can unreasonably delay a project.

State Action Required

State leadership is needed to improve CEQA. The reform needs to improve the certainty, predictability, reliability, clarity, and efficiency of CEQA without weakening appropriate environmental protections and standards. Standards of review, “thresholds of significance”, and time-frames for the completion of environmental review process need to be made reliable and should be standardized.

Necessary Elements of CEQA Reform

CEQA reform should provide up-front quality planning and environmental assessment in return for less paperwork and red tape later in the process. The principles include:

- Simplify and streamline the process without eroding environmental protection: focus on real environmental impacts and minimize the opportunity for extraneous issues.
- Reduce the law suits and appeals to CEQA that have no merit by increasing the risk and cost of filing un-grounded lawsuits.
- Encourage comprehensive planning, environmental impact analysis and enhanced environmental protections (as appropriate based on the planning and analysis) up front in the General Plan, Specific Plan and Master Plan processes in return for relief from burdensome paperwork later in the project-specific review and decision-making processes.
- Provide incentives for local governments to establish standard thresholds and mitigation measures to increase certainty, predictability, reliability, clarity and efficiency.
- Simplify Environmental Impact Reports and improve coordination with state and regional agencies for regulatory approval.
- Require regional agencies to establish jurisdiction-wide methodologies for analysis, standard thresholds and mitigation measures that may be adopted at the option of local governments.
- Require that all new reforms be accomplished through publicly-noticed hearing processes.
- Create a presumption of legal adequacy if the reforms are enacted and require the courts to uphold and respect such actions.

