

# ALSTON & BIRD LAND USE MATTERS

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*Land Use Matters* provides information and insights into legal and regulatory developments, primarily at the Los Angeles City and County levels, affecting land use matters, as well as new CEQA appellate decisions.

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## City of Los Angeles

### Department of City Planning

#### CEQA Appeals Code Amendment

The Department of City Planning (DCP) is proposing a new code section that would formally establish administrative appeal procedures and deadlines for California Environmental Quality Act (CEQA) cases. The proposed section provides that when a decision maker, other than the City Council, certifies or adopts an environmental impact report (EIR) or mitigated negative declaration (MND) or determines the project is exempt from CEQA, such action may be appealed to the City Council "within 15 days of the project approval becoming final." The City also intends the amendment to allow the City Planning Commission (CPC) to conduct the public hearing for projects relying on sustainable communities environmental assessments per Senate Bill 375, which, under current practice, must be conducted before the City Council as the "legislative body of the lead agency."

The DCP held a public hearing on June 6, 2018, to take comments on the proposed amendment. The CPC will consider the proposed amendment at a public meeting tentatively scheduled for August 23, 2018, and comments should be received by August 10, 2018. The proposed ordinance can be found [here](#) and frequently asked questions found [here](#).

#### Proposed Affordable Housing Linkage Fee Increase

In December 2017, the City Council approved a motion directing the DCP to consider increasing the affordable housing linkage fee (AHLF) for "high market areas" from \$15 per square foot to \$18 per square foot. High market areas include the community plan areas of Brentwood-Pacific Palisades, Bel-Air-Beverly Crest, Westwood, West Los Angeles, Palms-Mar Vista-Del Rey, Venice, and Westchester-Playa Del Rey. On May 2, 2018, the DCP issued a [report and draft resolution](#), and the Housing Committee approved the report on May 23, 2018. The Planning and Land Use Management Committee will consider the report and draft amendment on June 12, 2018.

## California Environmental Quality Act

### *Jensen v. City of Santa Rosa* (1st App. Dist., 5/24/18)

The court of appeal upheld an MND for the development of a youth center, which would provide counseling, job training courses, and health and wellness programs. The project would convert a vacant hospital facility. The plaintiffs were nearby residents who objected on grounds of traffic noise from the project's parking lot and noise from outdoor recreational activities. While the court engaged in a very detailed and technical discussion of noise calculations, the key factors supporting the court's conclusion were: (1) the city's noise ordinance and the qualitative criteria provided in that ordinance; (2) expert analysis provided in support of the MND; (3) various conditions of approval imposed by the city on the project; and (4) the absence of an expert opinion supporting the project opponents' opinion on noise levels. Notably, the court found that "opinions rendered by nonexperts ... do not amount to substantial evidence."

[Download Opinion](#)

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