

# ALSTON & BIRD LAND USE MATTERS

A publication of Alston & Bird's Land Use Group

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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

#### Affordable Housing Linkage Fee

As reported in the [January/February 2018 edition of \*Land Use Matters\*](#), the Affordable Housing Linkage Fee (AHLF) Ordinance became effective on February 17, 2018. The ordinance places a fee on certain new market-rate residential and commercial development projects to generate funds to build affordable housing. The Department of City Planning released a [memo](#) outlining the fee amount by market area, the timeline for the percentage of the full fee due at building permit issuance, exemptions to the AHLF, and the types of projects that may be eligible for deductions/credits. The AHLF is phased-in based on the submittal date of the building permit application or a complete planning entitlement application, whichever occurs first. Applications submitted before June 18, 2018, are exempt from the fee.

## California Environmental Quality Act

### *Rodeo Citizens Association v. County of Contra Costa* (1st App. Dist., 4/12/18)

Appellant Rodeo Citizens Association (RCA) had obtained a trial court decision invalidating an EIR prepared for an oil refinery project in Northern California based on certain inadequacies in the analysis of air quality impacts. Despite that trial court ruling, RCA appealed the ruling because the trial court had denied its other CEQA claims. However, the Court of Appeal denied the entirety of RCA's appeal. The project at issue would modify existing facilities and add new facilities to Phillips 66's refinery to allow for the recovery of butane and propane from its refinery fuel gas and ship it by rail for sale. RCA contended that the project description was inadequate because it did not cover the alleged increase in processing of nontraditional crudes. That argument was rejected because there was substantial evidence to support the determination that the project was designed and permitted on the basis of the refinery's current operations under existing permits. RCA also argued that the evaluation of the project's greenhouse gas emissions was inadequate because it did not analyze emissions from the combustion of the propane and butane by "downstream" users who purchased it from Phillips 66. The court held that there was substantial evidence to support the lead agency's conclusion that such impact was too speculative to further analyze given the variety of uses of the propane and butane purchased from Phillips 66. Finally, the court held that there was substantial evidence, including a number of technical studies, supporting the conclusion in the EIR that the project's environmental impact from the handling and transportation of hazardous materials would be less than significant.

#### [Opinion](#)

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