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Football and the Future of CEQA for Popular Projects

In quick succession, the Southern California cities of Inglewood and Carson have used the initiative process to approve new NFL football stadiums in bids to lure teams to new homes, bypassing review under the California Environmental Quality Act (CEQA) along the way. These wildly popular projects—seeking to bring professional football back to Los Angeles after more than 20 years—pose a question: Is this a football-only phenomenon, or might other popular projects utilize the initiative process as well?

The authority to bypass CEQA, used by Inglewood and Carson, is rooted in the California Elections Code, and the recent California Supreme Court decision, *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029 (*Tuolumne*). Under the Elections Code, when more than 15 percent of a jurisdiction's registered voters support an initiative, the elected body must choose to: (1) approve the initiative; (2) order a special election to submit the initiative for a public vote; or (3) order a report on the initiative to be prepared by city agencies. (Elections Code § 9214(a)) Last August, the Supreme Court's *Tuolumne* decision confirmed that CEQA does not apply when the elected body chooses option (1) and adopts the initiative directly.

In each case, after stadium project proponents quickly gathered tens of thousands of voter signatures necessary to place the stadium projects before their respective city councils, each council unanimously approved the project. On February 24, 2015, the Inglewood City Council approved an 80,000-seat stadium on the site of the former Hollywood Park horse racetrack. Inglewood's target is the St. Louis Rams. On April 21, 2015, the Carson City Council approved a 70,000-seat stadium on a former municipal landfill. Carson plans a joint-use stadium to house both the Oakland Raiders and the San Diego Chargers.

These approvals were fast-tracked in an effort to entice the teams to move (to date no team has committed and the NFL has not approved any move). Projects such as these generally require an Environmental Impact Report under CEQA that studies traffic, air quality, biology, water, and many other topics, which routinely takes years to complete. Large-scale projects also often attract opponents willing to file CEQA litigation, which can introduce additional years of delay. By avoiding CEQA analysis, both cities shaved years off of the standard approval timeline.

Will this tool be used by other jurisdictions around the state to compete for infrastructure projects, new employment sources (like a Tesla plant or a university, technology or entertainment campus), affordable housing projects, or other commercial projects (like a lakefront development or amusement park)?

Some commentators predicted the end of CEQA when the Supreme Court issued the *Tuolumne* decision. It remains to be seen whether other projects beyond professional football stadiums can garner the public support and political will necessary to proceed by initiative.

This document is intended to provide you with general information regarding CEQA in California. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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