

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

Proposed Park Fee Ordinance

In March 2016, the City Planning Commission (CPC) recommended approval of a new [Park Fee Ordinance](#) establishing a fee for all new residential dwelling units and joint live/work quarters. The Planning and Land Use Management (PLUM) Committee was scheduled to consider the ordinance on August 30, 2016; however, due to a lack of quorum, the meeting was postponed. The PLUM hearing is tentatively rescheduled to September 6, 2016, and the City Council hearing on September 7, 2016. The ordinance, if approved by the City Council, will become effective 60 days following its adoption.

Senior staff from the Department of City Planning (DCP) presented at the August 24, 2016, Land Use Committee of the LA Chamber of Commerce meeting to present various [citywide policy initiatives](#) DCP is pursuing. (Ed Casey from Alston & Bird chairs that committee.) The various policy proposals include a housing linkage fee (i.e., affordable housing in lieu fee), community plan updates, streamlining the California Environmental Quality Act (CEQA) and restructuring the entire department.

California Environmental Quality Act

Friends of the Willow Glen Trestle v. City of San Jose (6th App. Dist., 8/12/16)

In this case, the court addressed the standard of review applicable to a city's determination whether a particular structure is a historical resource within the meaning of CEQA. The City of San Jose proposed a project to demolish the Willow Glen Railroad Trestle. The city found that the Trestle was not a historical resource within the meaning of CEQA and adopted a mitigated negative declaration. During the comment process on that MND, a local historian and an environmental architect submitted comments contending that the Trestle was a local historical resource. Under CEQA § 21084.1, a structure may be considered a historical resource if (1) it is listed on a local register of historical resources, which creates a *presumption* that the structure is a historical resource; or (2) the lead agency determines that the structure is a historical resource even if it is not listed on a local register. (CEQA § 21084.1 mandates that a structure or building listed on the California Register be considered a historical resource, but this case does not address that aspect of § 21084.1.) When the court considered those two provisions of § 21084.1 concerning local historical resources, the court held that the more deferential "substantial evidence" test applied to the lead agency's determination, not the "fair argument" test. Therefore, the lead agency's determination whether a structure is or is not a local historical resource will be accorded substantial deference under the substantial evidence test.

[Download Opinion](#)

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