

ALSTON & BIRD_{LLP}

LAND USE MATTERS

A publication of Alston & Bird's Land Use Group

December 2014

Each month, *Land Use Matters* will provide 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

City Council

Planning and Land Use Management Committee Proposes Amendments to Draft Sign Ordinance

At its December 16, 2014 meeting, the Planning and Land Use Management (PLUM) Committee proposed nine amendments to the draft citywide sign ordinance that was released on October 10, 2013: 1) increase the signage takedown ratio and require net reductions *and* community benefits; 2) prohibit on-site digital signs except for geographic areas with existing review processes such as specific plans and sign districts; 3) include provisions for reasonable sign adjustments and on-site relocation of existing off-site signs; 4) make allowances for arenas and/or stadiums greater than 20,000 seats (reduced from 50,000 seats) to qualify for future sign districts; 5) provide stipulations to protect museums and cultural institutions' use of exhibition announcements and sponsorships; 6) establish a process for digital displays within roof signs on buildings designated as Historic-Cultural Monuments located within established Supplemental Use Districts; 7) clarify/include provisions regarding pre-1986 mural signs approved during/around the 1984 Los Angeles Olympics; 8) make clear/include conditions regarding on-site signs on access easements on adjacent properties; and 9) clarify the status of existing off-site signs lacking or not complying with permits as lawfully erected per the "rebuttable presumption" provisions of State Law.

PLUM directed staff to report back on updating the grandfathering of pending sign districts and specific plans' list to include applications as of December 16, 2014, to analyze both public and private options for potential further sign reduction programs and to prepare a fiscal analysis of potential costs to the City and any revenue that can be realized from sign reduction programs. PLUM wants to review the report before directing the City Attorney to amend the language of the proposed ordinance.

[Click here](#) to review the PLUM report.

City Clerk

City Clerk Certifies List of Candidates for 2015 Primary Nominating Elections

On December 12, 2014, the City Clerk released the official list of candidates who qualified to appear on the March 3, 2015, ballot. Councilmembers Paul Krekorian (CD 2) and Nury Martinez (CD 6) will each face one challenger, and Council President Herb Wesson, Jr. (CD 10) has two opponents. Councilmember José Huizar (CD 14) has four challengers, and Councilmember Mitch Englander (CD 12) will run unopposed. Councilmember Tom LaBonge (CD 4) and Councilmember Bernard Parks (CD 8) are termed out, and 14 candidates are running for the CD 4 seat, and four candidates qualified for the CD 8 seat. To review the complete list of candidates and the order they will appear on the March ballot, [click here](#).

California Environmental Quality Act

The topic of climate change and how to analyze it in CEQA documents dominated this month's reported appellate decisions.

Sierra Club v. County of San Diego (4th App. Dist., 11/24/2014)

The Court invalidated a "Climate Action Plan" (CAP) prepared by the County of San Diego (SD County) pursuant to its updated General Plan. When adopting the updated General Plan, SD County also adopted a mitigation measure that required the adoption of the CAP, which was to include enforceable measures that would achieve specific reductions in greenhouse gas emissions (GHGs). In the Court's eyes, however, the caP later adopted by SD County did not live up to that standard. According to the Court, (1) the CAP did not ensure attainment of the GHG reductions specified in the updated General Plan and, in fact, expressly recognized that GHGs could *increase* after the year 2020; (2) the CAP improperly relied on *unfunded* programs aimed at reducing GHGs; (3) the CAP did not evaluate the likelihood that a particular program or mitigation measure would achieve GHG reductions; and (4) the CAP was approved by SD County as a "plan level" document, which would allow future development projects to rely on the analysis in the CAP without conducting their own climate change analysis, even though the CAP did not include any enforceable mitigation measures (which would be incorporated into future projects) and no supplemental Environmental Impact Report (EIR) was prepared for the CAP. These defects led the Court to strike down SD County's CAP. [Download Opinion](#).

Cleveland National Forest Foundation v. San Diego Association of Governments (and related actions) (4th App. Dist., 11/24/2014)

The Court invalidated the program EIR prepared by the San Diego Association of Governments (SANDAG) for its 2050 Regional Transportation Plan and Sustainable Communities Strategy (the Plan). As in the *Sierra Club* case, the Fourth Appellate District found numerous flaws in the climate change analysis in SANDAG's program EIR:

1. The EIR did not analyze the Plan's consistency with the Governor's Executive Order S-3-05 issued in 2005, which the Court found to be a key document reflecting the State's climate change policy. The Court rejected SANDAG's rationale for not doing so, which was its reliance on the significance thresholds in CEQA Guideline 15064.4(b). Those thresholds, the Court said, are not "exclusive" and do "not necessarily equate to compliance with CEQA."
2. The EIR failed to discuss mitigation measures that could substantially lessen the Plan's impacts from GHGs and instead focused on only three measures that did *not* ensure GHG reductions.
3. The EIR "inexplicably" failed to evaluate the project alternatives that would reduce total vehicle miles traveled, focusing only on programs to reduce traffic congestion.
4. The EIR failed to adequately analyze the air quality impacts of planned transportation projects, deferring such analysis to future project-level EIRs. Further, citing another decision from 2014, the Court held that the EIR must try to correlate the Plan's adverse air quality impacts to health impacts that may occur in the future. (See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184.)¹

¹ Refer to Alston & Bird's Land Use Matters dated June 2014, [Sierra Club v. County of Fresno \(5th App. Dist.: May 27, 2014\)](#).

5. The EIR improperly deferred adoption of mitigation measures without setting any performance standards for future mitigation measures. [Download Opinion.](#)

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