Supreme Court Reaffirms Corporate CEQA Standing

By Arthur F. Coon on October 17th, 2011

Can a corporation challenge a business competitor's or other entity's project under CEQA when its real interests are commercial rather than environmental? In its recent decision upholding the City of Manhattan Beach's "plastic bag ban" ordinance and related negative declaration, the California Supreme Court said "yes," effectively eliminating a potential standing defense to CEQA actions motivated by economic concerns. (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155.)

The standing ruling is significant because such cases never fail to touch a nerve with project proponents who perceive themselves as targets of abusive (or even extortionate) CEQA lawsuits. At least some Courts of Appeal over the past decade have provided some succor, opining that "corporate competitor" plaintiffs lack CEQA standing when they assert purely economic injuries not within the "zone of interests" protected by CEQA. (*Waste Management of Alameda County, Inc. v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1238; *see Burrtec Waste Industries, Inc. v. City of Colton* (2002) 97 Cal.App.4th 1133, 1139.) But the "zone of interests" standing test proved difficult to apply in practice, and thus provided an unreliable defense, especially in light of CEQA's extremely broad grant of standing under Public Resources Code § 21177 to anyone who objects to a project on environmental grounds either during the CEQA public comment period or before the close of the public hearing on the project.

The Supreme Court's *Save the Plastic Bay Coalition* decision provides welcome clarity to the CEQA standing rules for corporate plaintiffs: it holds that corporate business competitors asserting economic or commercial interests have traditional "beneficial interest" standing which is sufficient to seek CEQA relief, and further are not subject to any heightened standing hurdles or scrutiny when claiming "public interest standing" (an exception to the normal beneficial interest requirement). In essence, the Supreme Court disapproved the *Waste Management* case and held the standing requirements for corporate entities challenging CEQA compliance are no different than those for ordinary (human) citizens.

In rejecting the argument that corporations are disqualified from having standing by virtue of having an economic interest in the matter at hand, the Supreme Court explained: "The city suggests that a plaintiff must be affected by a particular adverse *environmental* impact to qualify as a beneficially interested party in a CEQA suit. We have never so limited the scope of the beneficial interest requirement [for standing]. It is not unusual for business interests whose operations are directly affected by a government project to raise a CEQA challenge to the government's environmental analysis. [citations] These are not citizen suits. Such parties are "'in fact adversely affected by governmental action'" and have standing in their own right to challenge that action." (*Save the Plastic Bag Coalition, supra,* at 170, citations omitted.) Thus, the plaintiff in the case – a corporate entity/coalition of plastic bag manufacturers and distributors – had standing to challenge a plastic bag ban ordinance that would have had a severe and immediate effect on its members' business in the city.

While defendants on the receiving end of economically-motivated CEQA suits may not like the ruling, at least the standing rules for corporate entities are now clear.