



ALSTON & BIRD LAND USE MATTERS

A publication of Alston & Bird's Land Use Group

August 2019

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.

Please visit the firm's website for additional information about our [Land Use Group](#).

City of Los Angeles

City Council

CEQA Transportation Section Update

In accordance with state legislation (Senate Bill 743), the City of Los Angeles has now completed its update of the transportation section of the city's California Environmental Quality Act (CEQA) Thresholds Guide. Instead of using level of service (LOS) to evaluate a project's traffic impacts under CEQA, the city will use vehicle miles traveled (VMT). The new threshold will be required for any project that does not receive final city approval before July 1, 2020. The city's new guidelines include an online VMT calculator, which also includes an evaluation of the reduction in VMT for a variety of potential mitigation measures. (Unbundled parking is a measure that provides one of the largest VMT reductions.) It should be noted that an evaluation of a project's impacts under the LOS methodology may still be required for other impact analyses in the CEQA document, such as air quality, noise, compliance with a land use plan that specifically speaks to LOS impacts, and greenhouse gas emissions. More information concerning the new guidelines is provided in the [Frequently Asked Questions](#) and the [LADOT Transportation Assessment Guidelines](#).

Los Angeles City Council Adopts Procedures and Deadlines for CEQA Appeals

Under state law, CEQA affords any person the right to appeal to the elected body of a local agency (e.g., a city council) any determination on a CEQA document made by a non-elected body of a local agency (e.g., a planning commission). That provision applies to certifications of environmental impact reports (EIRs), adoption of mitigated negative declarations (MNDs), and approval of CEQA exemptions. The city council has now adopted a procedure requiring that such appeals be filed within 10 days following the filing of a notice of exemption or notice of determination concerning the non-elected body's CEQA determination. This [new ordinance](#) also requires the city council to hold a public hearing and render its decision within 75 days of the filing of the CEQA appeal.

California Environmental Quality Act

Federal Court Dismisses Some, But Not All, Antitrust Claims Brought by Developer Against Local Unions

Icon, a real estate developer, sought to develop a mixed-use project in Panorama City. According to the complaint filed by Icon in federal court, two unions (Southwest Regional Council of Carpenters and the Laborers' International Union) threatened to file a CEQA lawsuit if the developer did not agree to use union labor. Icon responded by filing a complaint in federal court alleging five claims under different antitrust statutes and one claim under the Labor Management Relations Act. The defendant unions filed a pre-trial motion to dismiss Icon's entire complaint. On August 7, 2019, the federal district court *dismissed* the Racketeer Influenced and Corrupt Organizations Act (RICO) claim and a part of one other antitrust statute for failure to allege facts sufficient to maintain a legal claim against the unions. However, the federal court *denied* the motion as to the remaining claims. Accordingly, discovery will, presumably, be ongoing.

[Order](#)

Hollywoodians Encouraging Rental Opportunities v. City of Los Angeles and Millennium Settlement Consulting / 1850 North Cherokee LLC (2nd App. Dist., 7/22/19)

The City of Los Angeles approved the conversion of a vacant 18-unit apartment building into a boutique hotel based on an MND. The plaintiff argued that the city was required to prepare an EIR to analyze the loss of rent control units. The court rejected that argument because the property had been withdrawn from the rental market pursuant to the city's Rent Stabilization Ordinance a number of years before the entitlement process for the current project. Accordingly, the court held that the MND used the proper environmental baseline.

[Opinion](#)

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Editor's Note: We are pleased to congratulate Ed Casey on his recognition by the *Los Angeles Business Journal* as one of the "Top Litigators in Los Angeles" in land use. You can read more about the award [here](#).

This publication by Alston & Bird LLP provides a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

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