



# ALSTON & BIRD LAND USE MATTERS

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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

### ***Draft Economic Study on Affordable Housing In-Lieu Fee***

Pursuant to Measure JJJ adopted by the voters at the November 2016 election, the City has prepared a [draft economic study](#), which is the first step to adopting an in-lieu fee for affordable housing. Measure JJJ generally applies to residential projects that require a general plan amendment, zone change, or height district change that would intensify the proposed use on the property. The proposed in-lieu fees described in the draft study are substantial; refer to pages 26–33.

### ***Selection of CEQA Consultants***

Pursuant to City Council action, the Planning Department will be releasing requests for qualification to assist the City in preparing a prequalified list of on-call [environmental consultants](#) to prepare CEQA review documents for the City. Applicants seeking entitlements for development projects will be required to select a CEQA consultant from that list.

## Trial Court Decisions in CEQA Cases

### ***Trial Court Invalidates City's Hybrid Industrial Ordinance***

The Los Angeles Superior Court (Judge Strobel) invalidated the City's Hybrid Industrial Live/Work Zone ordinance. This ordinance was anticipated to be applied to projects in different areas of the City, including the Arts District. The trial court ruled that the City improperly relied on a categorical exemption under CEQA when it adopted the ordinance.

[Superior Court Ruling](#)

### ***Trial Court Invalidates Approval for 8150 Sunset Project***

In a case involving a high-profile development project (slated to be designed by Frank Gehry), the Los Angeles Superior Court (Judge Hogue) invalidated the project entitlements based on the City's EIR analysis and findings concerning alternatives that would have preserved a historic building on the project site. The court found error in the City's rejection of the preservation alternatives, making the following notable holdings: (1) the comparative benefits of the project relative to an alternative is not a basis to find the alternative "infeasible" within the meaning of CEQA; (2) an alternative's inconsistency with "non-basic project objectives" is not a valid basis to reject an alternative; (3) in evaluating alternatives,

the decision-maker should consider factors “external” to the alternative (which would exclude the alternative’s design and aesthetics); and (4) to find that an alternative is not economically feasible, the lead agency must determine, based on its independent judgment, that the alternative’s reduced profitability is so severe to make it “impractical” to proceed with the alternative.

[Superior Court Ruling](#)

***Hollywood Target Store***

In the second round of litigation challenging the City’s approval of a Target store in Hollywood, the Los Angeles Superior Court (Judge Fruin) once again invalidated the City’s approval. Previously, the court invalidated the project approval because there was not substantial evidence supporting the variances granted for the project. The City then adopted an amendment to the Specific Plan that would permit the Target store without the need for variances. However, since the amendments to the Specific Plan went beyond the Target project site, but the additional CEQA document prepared for the amendment only evaluated the Target project, the trial court invalidated the Specific Plan amendment.

[Superior Court Ruling](#)

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