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LAND USE NEWS

LAND CONSERVATION AND WATER RIGHTS RESTORATION FOR THE YUROK TRIBE

The Yurok Tribe has regained ownership of 47,097 acres of ancestral land along the lower Klamath River, which is reportedly the largest land return in California history.

Background

The reclaimed area includes Blue Creek, now renamed the Blue Creek Salmon Sanctuary and Yurok Tribal Community Forest. Blue Creek is vital to the Yurok people spiritually, culturally, and ecologically. Industrial timber operations have occurred in the area for decades, however, the creek has maintained high water quality and ecological resilience.

The Plan

Logging operations reportedly disrupted natural wood recruitment in streams, reducing vital fish habitat. The Yurok Tribe plans to reintroduce fallen wood to the streams, creating cover and resting spots for salmon at different life stages. In addition, the following illustrate various components of the Plan.

The Return of Good Fire

The tribe plans to reintroduce controlled burns—historically used by Indigenous communities for forest management. These "good fires" help reduce underbrush, prevent catastrophic wildfires, and encourage growth of native plants. It creates a healthier, more resilient forest ecosystem, mimicking natural cycles disrupted by industrial logging.

Upland Forest Rehabilitation

Industrial timber practices have according to some stakeholders left ecological scars, especially on hillslopes. The Yurok aim to rebalance the forest structure by managing tree density and promoting biodiversity. This could involve thinning overgrown areas, replanting native vegetation, and restoring wildlife corridors.

Creek Habitat Restoration

Blue Creek's fish habitat was also reportedly degraded by the loss of naturally fallen wood, which helps create stream complexity. The tribe will add logs and woody debris back into the creek—a process called "wood loading." Wood loading slows down water flow; creates deep pools for adult salmon; and offers shelter and feeding areas for juvenile fish.

Holistic Watershed Management

The plan undertakes the whole landscape as interconnected—the forest, stream, and ocean. Restoration is not just about salmon, but instead about reviving ecosystem functions for generations to come. The efforts also support cultural revitalization, ensuring the land nurtures both people and wildlife.

Funding Snapshot

$70 million is slated for the plan and related projects. Blue Creek land back project was financed through a smart mix of mostly private funding sources, with limited public support. About $56 million came from private capital, including carbon credit sales, New Markets Tax Credits, and philanthropic foundations like the Packard and Wyss Foundations. Only $8 million came from direct state grants, notably from California's Wildlife Conservation Board and State Coastal Conservancy. An additional $3.3 million from carbon revenue is being directed to the Yurok Tribe for ongoing land stewardship.

This financing model reflects a trend where innovative conservation deals rely less on public dollars and more on market-based and philanthropic mechanisms.

Conclusion and Implication

This land conservation and water rights restoration for and by the Yurok Tribe is a landmark effort likely to effectuate positive impacts for decades to

come. The plan may implicate broader efforts with the Klamath River recovery efforts, which involves in part removal of four dams. To this large impact for the Klamath River ecosystem, and the removal of four dams, over four hundred miles of salmon habitat upstream are now accessible again. Blue Creek provides the first major cold-water refuge for migrating salmon headed upriver, making it a literal lifesaver in a warming climate.

The Yurok Tribe's restoration and stewardship of the forest and streams directly strengthens the entire watershed's ecological health. The tribe's fisheries department, reportedly staffed with nearly 100 specialists, is now central to managing salmon survival and monitoring outcomes basinwide.

Collectively, all of these efforts are a powerful convergence of land justice, climate action, and biodiversity conservation. Ultimately, the plan and its projects are not just a land return. This is a linchpin in one of the most ambitious river and fish recovery efforts in U.S. history.
(Wes Miliband)

LEGISLATIVE DEVELOPMENTS

CALIFORNIA SENATE BILL 79: A BOLD PLAN TO INCREASE HOUSING NEAR TRANSIT IN CALIFORNIA

Senate Bill 79 (SB 79), authored by Senator Scott Wiener (D–San Francisco), has emerged as a cornerstone of California's legislative efforts to increase the state's housing supply through transit-oriented development (TOD). The bill—known as the *Abundant & Affordable Homes Near Transit Act*—seeks to override local zoning constraints to allow denser residential development near transit stations. Passed by the California Senate on June 3, 2025, by a narrow 21–13 vote, SB 79 now faces committee review in the State Assembly.

Intent and Policy Goals

SB 79 is designed to address California's ongoing housing shortage and climate change goals by promoting mid- and high-density residential development within walking distance of major public transit stops. The legislation aims to remove local zoning barriers that currently limit multifamily housing in these areas and replace them with statewide standards for height, density, and floor area ratio (FAR). The bill also provides incentives for projects that include affordable housing and promotes financial sustainability for transit agencies by encouraging development on agency-owned land.

TOD Tiers and Development Standards

The bill introduces a three-tiered system based on the type and frequency of nearby transit service. Development standards vary depending on the proximity of a project to Tier 1, 2, or 3 TOD stops.

Tier 1 includes high-capacity stations like BART and LA Metro's B and D Lines. Projects within ¼ mile can reach 75 feet in height, with densities of at least 120 dwelling units per acre and FAR up to 3.5. Within ½ mile, the height drops to 65 feet, and density to 100 units per acre.

Tier 2 includes light rail lines (such as SF Muni Metro, LA Metro A, E, G lines, etc.) and certain bus rapid transit (BRT) services. These projects can reach 65 feet within ¼ mile, and 55 feet within ½ mile, with corresponding densities of 100 and 80 units per acre.

Tier 3 includes ferry terminals, low-frequency commuter rail stations, and designated stops in smaller jurisdictions. Heights range from 45 to 55 feet, depending on location and proximity, with minimum density standards set between 60 and 80 units per acre.

An "adjacency intensifier" allows projects directly abutting TOD stops (including parking parcels) to exceed baseline standards by adding 20 feet in height, 40 additional dwelling units per acre, and increased FAR.

In addition to state-mandated minimums, local governments may still apply objective zoning or inclusionary requirements, as long as they don't prevent the project from meeting SB 79's thresholds. A local TOD ordinance may offer alternative standards if it preserves or exceeds the total development capacity across the jurisdiction.

Eligibility Criteria and Affordability Requirements

To qualify under SB 79, a project must be located on land zoned for residential, mixed-use, or commercial use and be within a defined TOD zone. Projects proposing more than ten dwelling units must comply with either local inclusionary housing policies or the State Density Bonus Law (Gov. Code § 65915), which requires a minimum of 10 percent of units be affordable to low-income households if no local requirements exist. The bill also mandates compliance with anti-displacement protections under the Housing Crisis Act of 2019 and restricts development on environmentally sensitive lands.

While many backers of the bill champion it as a way to fast-track affordable housing, critics have noted that the current version does not include a minimum statewide affordable housing requirement, a concern echoed by several lawmakers.

Political Reactions and Local Pushback

Despite strong support from housing and transit advocates—including Streets for All, California

YIMBY, Greenbelt Alliance, and SPUR—the bill has faced growing opposition from lawmakers and constituents representing lower-density neighborhoods.

Assemblymember Rick Chavez Zbur, who represents areas like Larchmont Village and Hancock Park, voiced strong objections to allowing seven-story developments without local discretionary review. Zbur acknowledged the seriousness of the state's housing crisis but called for a more tailored approach that respects existing neighborhood patterns. Senator Ben Allen, representing parts of Miracle Mile, abstained from voting, citing concerns about displacement and the lack of affordability protections. Community leaders have also questioned whether increased supply will truly bring down costs.

Conclusion and Implications

As the bill advances through the California Assembly, it will first be reviewed by the Housing, Local Government, and Natural Resources committees. With the legislative session concluding in September, there is still time for significant amendments.

Ultimately, SB 79 represents a high-stakes effort to reconcile California's urgent need for housing with long-standing concerns about neighborhood integrity, affordability, and displacement. Whether the bill becomes law in its current form or through compromise, it will likely shape the future of land use and transit policy in California for years to come. To track the bill's progress online, *see:* https://legiscan.com/CA/text/SB79/id/3059553
(Mona Goodarzi)

RECENT FEDERAL DECISIONS

RECALIBRATING NEPA COMPLIANCE: THE U.S. SUPREME COURT'S CLARIFICATION ON THE PURPOSE AND SCOPE OF ENVIRONMENTAL REVIEW

Seven County Infrastructure Coalition v. Eagle County, Colorado, ___U.S.___, Case No. (May 29, 2025).

On May 29, 2025, the U.S. Supreme Court issued a decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, reversing the D.C. Circuit Court of Appeals' *vacatur* of a major rail project and clarifying the contours of agency obligations under the National Environmental Policy Act (NEPA).

Background

The case centered on an 88-mile freight rail project designed to transport crude oil from Utah's Uinta Basin to the national rail network and ultimately to Gulf Coast refineries. The Surface Transportation Board (STB) had approved the project after preparing a 3,600-page Environmental Impact Statement (EIS). However, the D.C. Circuit invalidated that approval, finding the STB's environmental review deficient for not fully analyzing the upstream and downstream environmental effects, namely, oil drilling and refining operations.

In a 5-3 decision authored by Justice Kavanaugh, the Court ruled that NEPA does not require agencies to analyze environmental effects of projects outside their statutory authority or those separated in time or geography from the project under review. The opinion significantly narrows the scope of NEPA review and signals greater deference to agency discretion, especially in large infrastructure cases.

The Supreme Court's Decision

NEPA's Procedural Nature Reaffirmed

The Supreme Court reiterated a foundational principle: NEPA is a procedural statute, not a substantive environmental mandate. Agencies are required to prepare an Environmental Impact Statement (EIS) for projects that significantly affect the environment, but NEPA does not constrain the agency's ultimate decision to approve a project, even in the face of adverse environmental impacts. The statute's role is to ensure informed decision-making, not to dictate outcomes.

The Court underscored that courts reviewing EIS adequacy should not substitute their judgment for that of the agency, so long as the agency has reasonably considered the significant effects of the project at hand and feasible alternatives. This reinforces a longstanding principle from cases like *Robertson v. Methow Valley Citizens Council* and *Vermont Yankee Nuclear Power Corp. v. NRDC*, that courts should not use NEPA as a tool to obstruct infrastructure development under the guise of procedural scrutiny.

Clarifying the Scope of Environmental Effects

A core dispute in the case was whether the STB had to analyze the downstream environmental effects from increased oil refining and the upstream impacts from more drilling activity facilitated by the railway. The D.C. Circuit had found these impacts to be "reasonably foreseeable" and therefore within the EIS' scope.

The Supreme Court disagreed, holding that NEPA's textual focus is the "proposed action," not remote or speculative future projects initiated by third parties. It emphasized that even if such outcomes are foreseeable, they do not impose a legal obligation on the agency to analyze them, especially if the agency has no control over those effects.

The Court distinguished between environmental impacts that are directly or indirectly caused by the project and those that result from separate, independent projects. NEPA, the Court explained, does not require the evaluation of effects from projects the agency neither initiates nor regulates, citing *Department of Transportation v. Public Citizen*, 541 U.S. 752 (2004) and *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983) to support this limitation.

The Court stated:

> To be clear, the environmental *effects* of the project at issue may fall within NEPA even if those *effects* might extend outside the geographical territory of the project or might materialize later in time—for example, run-off into a river that flows many miles from the project and affects fish populations elsewhere, or emissions that travel downwind and predictably pollute other areas. Those so-called indirect effects can sometimes fall within NEPA, as the Government explained at oral argument. . . .But if the project at issue might lead to the construction or increased use *of a separate project*—for example, a housing development that might someday be built near a highway—the agency need not consider the environmental effects *of that separate project*. To put it in legal terms, the separate project breaks the chain of proximate causation between the project at hand and the environmental effects of the separate project. . . . Moreover, and importantly, the Board here possesses no regulatory authority over those separate projects. . . . In other words, agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority. . . . Simply stated, a court may not invoke but-for causation or mere foreseeability to order agency analysis of the effects of every project that might somehow or someday follow from the current project. . . . In this case, in any event, the NEPA question is not close. The Board did not need to evaluate potential environmental impacts of the separate upstream and downstream projects. As to other projects upstream, the EIS rightly explained that the environmental consequences of future oil drilling in the Basin are distinct from construction and operation of the railroad line.

Deference to Agency Discretion

The opinion placed a renewed emphasis on deference to agency expertise in determining the scope and level of detail of an EIS. The Court warned against judicial micromanagement, stating that courts should not demand excessive detail or impose rigid length requirements—an approach codified in the 2023 BUILDER Act, which limits EIS documents to 150 pages and mandates completion within two years.

The Court also clarified that even where an EIS may be deficient, such shortcomings do not automatically invalidate agency decisions. *Vacatur* is not required unless the deficiency would likely have changed the agency's ultimate approval. This serves to reduce the incentive for speculative litigation that targets tangential environmental effects in order to delay or derail projects.

Impacts on Environmental Litigation and Project Development

The ruling is poised to recalibrate NEPA litigation across the country. First, it substantially narrows the field of challengeable environmental effects, particularly in energy and transportation projects. Second, it sets a precedent that courts should no longer second-guess agency decisions about whether to evaluate downstream or upstream impacts, provided those projects are separate in time or space and outside the agency's jurisdiction.

The Court explicitly criticized the use of NEPA as a tool to stall projects, including renewable energy developments, under the guise of environmental review. This decision may embolden agencies to draw clearer boundaries in their EIS scopes, potentially expediting federal approvals for railroads, pipelines, highways, and clean energy infrastructure.

In the end, the Court stated:

> Citizens may not enlist the federal courts, "under the guise of judicial review" of agency compliance with NEPA, to delay or block agency projects based on the environmental effects of other projects separate from the project at hand. . . .We reverse the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

Conclusion and Implications

The U.S. Supreme Court's decision in *Seven County Infrastructure Coalition v. Eagle County* marks a significant narrowing of NEPA's reach, reining in decades of expansive interpretations from lower courts. Agencies must still conduct thorough envi-

ronmental analyses of the projects they propose or approve, but they are not required to account for remote, speculative, or tangential effects over which they have no control.

For practitioners, this decision underscores the importance of tailoring NEPA compliance to the specific project under review and clearly delineating the boundaries of responsibility. Agencies should document why certain environmental effects are excluded from analysis and support such decisions with citations to regulatory authority, or the lack thereof.

Going forward, project proponents can expect a more predictable, constrained NEPA process, and litigation strategies will need to adapt to a judicial climate more deferential to agency discretion. While this may streamline infrastructure development, it also narrows the window for environmental review, making early and targeted public participation in the EIS process even more critical. The Supreme Court's opinion is available online here: https://www.supremecourt.gov/opinions/24pdf/23-975_m648.pdf
(Darien Key)

RECENT CALIFORNIA DECISIONS

THIRD DISTRICT COURT ORDERS CITY TO PREPARE A FULL EIR, IN LIEU OF A MITIGATED NEGATIVE DECLARATION, DUE TO AESTHETIC IMPACTS OF PREFABRICATED METAL BUILDING IN RESIDENTIAL AREA

LaForest v. City of Mount Shasta, Unpub., Case No. C099020 (3rd Dist. May 15, 2025).

In the *unpublished LaForest v. City of Mount Shasta* the Third District Court of Appeal required the trial court to issue a writ requiring the City of Mount Shasta to prepare a full Environmental Impact Report (EIR) instead of a Mitigated Negative Declaration (MND) because substantial evidence supported a fair argument that the project would have significant aesthetic impacts, and the project's mitigation measure requiring post-certification aesthetic design review would not fulfill a lead agency's obligation under the California Environmental Quality Act (CEQA) to identify significant environmental impacts *prior* to project approval. Notably, the project featured prefabricated metal construction, which is prohibited in residential areas in the City.

Factual and Procedural Background

Golden Eagle Charter School sought approval from the City of Mount Shasta to construct a new K-12 school facility. The project included merging 10 parcels into two totaling approximately 12.4 acres, constructing a 33,500-square-foot building, and additional site improvements. Located within a high-density residential area, the site is near residential properties, a senior housing facility, medical facilities, and an existing elementary school.

The City, as lead agency, prepared an initial study and circulated an MND, concluding that the project's impacts could be mitigated through compliance with regulatory requirements and proposed mitigation measures. Following public hearings, commenters raised concerns regarding the building's aesthetics, specifically the use of prefabricated metal construction, contrary to the City's Design Guidelines for residential zones.

Despite these objections, the Planning Commission adopted the revised MND. Dale LaForest challenged this decision, asserting the City failed to adequately analyze and mitigate significant aesthetic, noise, and air quality impacts and engaged in improper piecemeal review of the project. The trial court rejected LaForest's petition for writ of mandate and injunctive relief.

The Court of Appeal's Decision

On appeal, the court applied the "fair argument" standard, which requires the preparation of an EIR if there is substantial evidence suggesting a project may have significant environmental effects, even if other evidence in the record might suggest otherwise. The court focused primarily on aesthetic impacts, finding that public comments, including expert and lay opinions, raised credible concerns about the project's potential inconsistency with local aesthetic standards.

The court examined the City's Design Guidelines, which mandate architectural review to maintain visual harmony and require that new buildings comply with a "mountain village" aesthetic featuring natural materials. Prefabricated metal buildings are explicitly limited to industrial zones. Despite this, the proposed building—a prefabricated steel structure with metal walls and roofing—was proposed in a residential area.

Public objections emphasized the stark contrast between the proposed building's "industrial commercial" appearance and the area's established residential and alpine setting. Expert commentary further supported the conclusion that the design constituted a significant adverse aesthetic impact.

The City acknowledged that the project's preliminary plans lacked adequate details to assess consistency with aesthetic guidelines fully. In response, the City revised mitigation measures to defer detailed architectural review. However, the court noted that deferring critical aesthetic compliance assessments does not fulfill CEQA's informational requirements

and fails to guarantee public participation in meaningful environmental review.

Rejecting the City's argument that post-approval review could sufficiently address aesthetic concerns, the Court of Appeal highlighted CEQA's requirement for the lead agency to identify significant environmental impacts *prior* to project approval, not afterward. The court differentiated this case from precedent where detailed design revisions adequately addressed initial concerns *before* final approval, emphasizing that the City had not completed a thorough architectural review or adequately justified deviation from established aesthetic standards. Given substantial evidence of potentially significant adverse aesthetic impacts, the court determined that the City of Mount Shasta must prepare a full EIR.

Conclusion and Implications

The appellate court reversed the trial court's decision, requiring the trial court to issue a writ petition ordering the City to prepare an EIR for the charter school project. This decision emphasizes the low threshold embodied in the "fair argument" standard applicable to mitigated negative declarations; if there is substantial evidence supporting a fair argument that a significant impact may flow from a project as amended by a Mitigated Negative Declaration, would-be petitioners may convince a court that a full-blown EIR is required. The court's *unpublished* opinion is available online at: https://www4.courts.ca.gov/opinions/nonpub/C099020.PDF
(Blaine R. Dyas)

CEQA DECISION BY THE SECOND DISTRICT COURT INVOLVING LOS ANGELES' GONDOLA PROJECT SIGNALS LARGER INFRASTRUCTURE CHALLENGES IN CALIFORNIA

Los Angeles Parks Alliance v. Los Angeles County Metropolitan Transportation Authority, *Unpub.*, Case No. B340838 (2nd Dist. 2025).

On May 1, 2025, the California Court of Appeal for the Second Judicial District dealt a significant setback to the proposed aerial gondola linking Union Station to Dodger Stadium—a project that has become emblematic of both the promise and the pitfalls of building major infrastructure in California. While the *unpublished* opinion does not end the project outright, it imposes substantial legal and procedural delays, underscoring the broader regulatory and litigation challenges facing infrastructure development across the state.

Background

The proposed Dodger Stadium gondola is a 1.2-mile aerial transit system intended to shuttle thousands of passengers between downtown Los Angeles' Union Station and the stadium in approximately seven minutes. Envisioned as a public-private partnership led by the nonprofit Zero Emission Transit, the project is designed to alleviate game-day traffic congestion, reduce carbon emissions, and offer a new form of sustainable, high-capacity transportation.

Supporters of the gondola, including transportation planners and some environmental advocates, have framed it as a creative solution to one of Los Angeles' most persistent logistical challenges. In addition to serving baseball fans, the gondola could become a popular tourist attraction, potentially integrating with the region's broader transportation network and even stimulating housing development near the station and along the route.

However, from its inception, the project has drawn criticism from preservationists and community organizations concerned about its environmental and visual impact. In particular, critics have raised objections to the gondola's potential intrusion into two significant green spaces—Elysian Park and Los Angeles State Historic Park—as well as its encroachment upon the El Pueblo de Los Angeles Historical Monument.

The Court of Appeal's Decision

At the center of the current delay is a legal challenge brought by two nonprofit organizations, the

California Endowment and the LA Parks Alliance. The lawsuit argued that the Environmental Impact Report (EIR), certified by the Los Angeles Metropolitan Transportation Authority (Metro), failed to fully analyze and mitigate the project's potential harms, in violation of the California Environmental Quality Act (CEQA).

While a lower court initially sided with Metro, affirming the adequacy of the EIR, the Court of Appeal reversed that decision in part and identified two key deficiencies that require further analysis and revision:

Inadequate Mitigation of Construction Noise

The Court of Appeal found Metro's approach to addressing noise impacts on nearby residents during construction to be insufficient. Although Metro acknowledged that construction would produce significant noise levels, the agency proposed only the use of noise barriers. Metro dismissed the possibility of retrofitting nearby apartment units with sound insulation as infeasible, but the court determined that this conclusion lacked substantial evidentiary support. The judges emphasized that Metro failed to justify its rejection of acoustic retrofitting as a mitigation measure and did not provide data or analysis to support its claims.

Failure to Consult Required Agencies

The court also held that Metro did not properly engage the Santa Monica Mountains Conservancy, a state agency with jurisdiction over the parklands and historical areas affected by the project. Under CEQA, such consultation is a required step in the environmental review process when public lands are implicated.

As a result of these findings, Metro and Zero Emission Transit must now revise the EIR, conduct additional technical studies, and reinitiate the public engagement and comment process. Only after these steps are completed can the revised report be resubmitted for approval. That revised report may itself be subject to further litigation, adding even more uncertainty to the timeline and feasibility of the project.

Implications for Infrastructure and CEQA Reform

The ruling not only complicates the immediate future of this particular project but also reflects a broader issue in California's infrastructure landscape: the frequent and prolonged use of CEQA litigation to challenge, delay, or derail major developments. Originally enacted in 1970 to ensure that environmental impacts were meaningfully considered before project approvals, CEQA has since evolved into a powerful—and, critics argue, sometimes misused—tool for opposition to nearly all forms of new construction, even those with climate or sustainability benefits.

In this case, the court's insistence on exploring interior sound insulation for temporary construction noise could become a new benchmark for opponents seeking to impose costly delays. While protecting community interests and environmental values remains vital, infrastructure advocates argue that the state's current regulatory framework often makes it unreasonably difficult to build much-needed housing, transportation, and climate resilience projects; they contend that the CEQA process, as currently applied, favors obstruction over progress and imposes undue burdens on public agencies and private developers alike.

Indeed, beyond the legal complexities, the gondola project still faces political and financial hurdles. In addition to obtaining final approval from Metro, it must secure permits from Caltrans (as the proposed route crosses the 110 Freeway), the California State Park and Recreation Commission, and the Los Angeles City Council. Some city officials have expressed skepticism, even directing the city's Department of Transportation to conduct its own independent environmental review.

Financially, the cost of the project—once estimated between $385 million and $500 million—continues to rise, potentially exceeding initial projections due to inflation, increased labor and material costs, and the impact of federal tariffs. Although the developers propose funding the project through private investment, including sponsorships and naming rights, these sources may be harder to secure amid legal uncertainties.

Conclusion and Implications

Despite these challenges, supporters remain cautiously optimistic. The ruling reinforces a broader conversation about the need for meaningful CEQA reform to ensure that critical infrastructure is not endlessly stalled by procedural roadblocks.

Governor Gavin Newsom and some members of the California legislature have recently signaled renewed interest in overhauling CEQA to better align with the state's climate and housing goals. The case may become a flashpoint in that debate, serving as a high-profile example of the tension between environmental oversight and practical development.

Ultimately, the fate of the Dodger Stadium gondola remains uncertain but the case has already crystallized a pressing reality: unless California can streamline its regulatory processes while still honoring its environmental commitments, the state's ability to build bold, forward-looking infrastructure will remain severely constrained. Without reform, even projects designed to reduce congestion, lower emissions, and expand access may remain stuck in the station. The court's *unpublished* opinion is available online at: https://www4.courts.ca.gov/opinions/nonpub/B340838.PDF (Mona Goodarzi)

THIRD DISTRICT COURT HOLDS THAT A GRADING PERMIT APPLICATION THAT INFORMS APPLICANT OF POSSIBLE CEQA COMPLIANCE, REQUIRES CEQA REVIEW FOR PERMIT STREAMLINING ACT COMPLETENESS

Old Golden Oaks LLC vs. County of Amador, 111 Cal.App.5th 794 (3rd Dist. 2025).

On May 30, 2025, the Third District Court of Appeal, in Old Golden Oaks LLC vs. County of Amador ruled that a city's grading permit application that asks "whether CEQA compliance is required" is sufficient to require CEQA review as a condition to that application being deemed complete under the Permit Streamlining Act.

Old Golden Oaks, LLC, in 2023, applied to Amador County (County) for a grading permit and encroachment permit in conjunction with a housing development that was approved in 1973. Old Golden Oak's predecessor-in-interest and the County had entered into an Agreement for the construction of streets and water services facilities, that Old Golden Oaks was now going to construct.

The County's Grading Permit application checklist included the list of exhibits required for the submittal and included a series of questions, including asking whether CEQA compliance was required. Old Golden Oaks submitted the necessary exhibits (*i.e.* erosion control plan, copy of right-of-way agreements, etc.) along with the Grading Permit application, but did not answer the CEQA question. The Grading Permit application indicated that the project planned to grade 58,740 cubic yards of dirt.

The Permit Applications Were Deemed Incomplete

Pursuant to the Permit Streamlining Act, the County deemed the application incomplete, noting to Old Golden Oaks required additional items to complete the application, Those items included on-site soil evaluation, approved water facility plans signed by Amador Water Agency, "will-serve" letter from Amador Water Agency (and Jackson Valley Fire Protection District), contractor's declaration and a signed indemnity form. In addition, specific to the Grading Permit application, the County requested: evidence that a notice of intent and stormwater pollution prevention plan had been submitted to the Regional Water Quality Control Board, engineering estimate for the proposed excavation, an erosion control plan and a proposed right-of-way agreement. Old Golden Oaks filed a verified petition for writ of mandate and complaint for declaratory relief challenging the request for additional information, arguing that the items were not listed on the application checklist as required under the Permit Streamlining Act (Gov. Code, Section 65920 et seq.).

While Old Golden Oaks challenged the County's request for additional items for both the Encroachment Permit and Grading Permit applications, the focus of the court, as it relates to CEQA is related to the Grading Permit, which the below focuses on.

The Permit Streamlining Act and the Grading Permit

The Permit Streamlining Act requires that public agencies have list(s) that outline and specify and provide details on the information required for

a development project. When an application for a development project is received by a public agency, the Permit Streamlining Act requires that agency to review the application to determine whether it is complete. That determination must be made within 30 days of receipt of the application. If the application is deemed incomplete, the Permit Streamlining Act requires an exhaustive list of the items that were not complete and the list of items is limited to only those items that are included on the application checklist the agency was required to provide the applicant at the time of application.

The Permit Streamlining Act does not require the applicant to prepare any documents or studies required under the California Environmental Quality Act (CEQA). Compliance with CEQA occurs after a development application is deemed "complete" under the Permit Streamlining Act; however, the statutes do not prevent or prohibit an agency to watch for environmental (CEQA related) issues during the permitting process and a review for completeness cannot be conditioned on receiving environmental information, if it is not included on the submittal checklist. Here, Old Golden Oaks had tried to argue that the Grading Permit completeness review could not be conditioned on compliance with CEQA, because the Grading Permit application checklist did not specify such review; however, as discussed below, the Court found to the contrary.

The Court of Appeal's Decision

The Court of Appeal ruled that the County's application included a question whether CEQA compliance was required, a question that Old Golden Oaks did not answer, coupled with the County's Municipal Code "Procedures for issuance of grading permits where required" that stated grading over 5,000 cubic yards required an indemnification permit and compliance with CEQA was sufficient to allow an application completeness to require compliance with CEQA as a condition for the application to be deemed complete. The court reasoned that the question on the application asking whether CEQA compliance was required for the issuance of the grading permit was sufficient to inform the applicant that they needed to obtain the information necessary to answer that question. By leaving the question blank, Old Golden Oaks was not allowed to simply avoid CEQA, but the information to answer that question was readily available and clearly defined in the Municipal Code section on grading permit issuance. Old Golden Oaks tried to argue that the County was required to have all of the questions in one list, but the Court found that the Permit Streamlining Act specifically allowed an agency to have multiple lists where the submittal requirements could be maintained and this in this instance the County's Municipal Code had clear section titles with detailed information on the requirements for a Grading Permit.

Conclusion and Implications

This case will require applicants to be very thorough in its review of a municipal code and application checklists to ensure they are aware of all required information necessary to have their application deemed complete. It is also confirms for agencies that they do not have to have a single exhaustive list of information required for a development project, but agencies must make sure that their application checklists and Municipal Codes include all information required, or they may find that if there is missing information and that information is not included in either document, that they cannot require, unless they are able to require as part of the CEQA compliance, if required. The Court of Appeal's opinion is available online at: https://www4.courts.ca.gov/opinions/documents/C099948.PDF
(Brent McManigal, Darien Key)

THIRD DISTRICT COURT UPHOLDS DEMURRER AGAINST UTILITY FOR FAILURE TO ARTICULATE "COMPARABILITY" TEST BETWEEN LOCALLY- AND STATE-ASSESSED PROPERTY TAX RATES

Pacific Bell Telephone Company v. County of Placer, ___Cal.App.5th___,
Case No. C101678 (3rd Dist. May 29, 2025).

In *Pacific Bell Telephone Company v. County of Placer* the Third District Appellate Court upheld the trial court's demurrer in favor of defendants County of Placer and Board of Equalization because plaintiffs Pacific Bell and other utility companies holding real property subject to defendants' taxation failed to prove their properties were subject to incomparable tax rates compared to locally-assessed properties in the county, as required for state-assessed property under Revenue and Taxation Code section 100.

Factual and Procedural Background

In December 2023, several telecommunications companies filed a complaint against Placer County and the Board of Equalization challenging the property tax rates applied to their state-assessed property. These utilities argued that the tax rate imposed by Placer County was unconstitutionally higher than the rate applied to locally assessed properties. Specifically, the utilities alleged the tax rate disparities violated Article XIII, Section 19 of the California Constitution, asserting this provision requires comparability between state-assessed and locally assessed property rates.

The County demurred to the complaint, asserting that it failed to state facts sufficient to constitute a valid claim based on existing precedent, particularly the decision in *County of Santa Clara v. Superior Court,* 87 Cal.App.5th 347 (2023) (*Santa Clara*), which upheld the constitutionality of similar tax rate structures. The utilities acknowledged this precedent in their response but maintained their constitutional arguments. However, the trial court, adhering to the Santa Clara decision, sustained the County's demurrer without leave to amend and entered judgment in favor of the County. The utility companies appealed the judgment.

The Court of Appeal's Decision

On appeal, the utility companies argued that the California Constitution, specifically Article XIII, Sections 1 and 19, implicitly require comparability in the tax rates imposed on state-assessed property and locally assessed property. Their arguments were centered around three key points: (1) the historical context and language of Article XIII, Section 19; (2) the general constitutional principle of taxation uniformity under Article XIII, Section 1; and (3) precedent established by the California Supreme Court in *ITT World Communications, Inc. v. City and County of San Francisco,* 37 Cal.3d 859 (1985) (*ITT*).

Initially, the Court of Appeal clarified that the utilities failed to effectively argue for an identical or equal rate requirement, explicitly abandoning such a claim during appellate briefing. Instead, the utilities argued for comparability, suggesting that while rates need not be identical, substantial disparities should trigger constitutional scrutiny.

Critically, the court noted the absence of a clearly defined standard or methodology from the utilities to measure what constitutes "comparable" tax rates. The court emphasized that without a specific standard or metric, neither the trial court nor the appellate court could assess whether Placer County's tax rate structure violated the asserted constitutional comparability requirement. Identifying the elements of "comparability" is especially significant in this case because both the state-assessed and locally assessed property tax schemes at issue comprise a 1 percent general levy and a debt service component and are therefore similar yet not identical.

The court then addressed the legal implications of the relevant constitutional provisions. It found that Article XIII, Section 19's requirement for taxation "to the same extent and in the same manner as other property" did not explicitly mandate identical rates, only comparable ones, assuming such comparability could be constitutionally required. The appellate court further noted that the general taxation uniformity under Article XIII, Section 1 similarly did not define clear boundaries for assessing comparability between different property tax rates.

In analyzing the precedent set by *ITT*, the court concluded that while *ITT* indicated a broad requirement for comparable taxation rates, it provided no clear standard or threshold for determining comparability. Thus, *ITT* did not resolve the specific issue presented by Plaintiffs.

Ultimately, the appellate court held that the utilities' failure to articulate any clear, practical standard for comparability left the court without the necessary tools to evaluate the constitutional validity of the County's property tax rates. The court thus affirmed the trial court's judgment, determining there was no legal basis presented by the utilities that could justify reversal or remand for further proceedings.

Conclusion and Implications

The Court of Appeal's decision affirms the principle that constitutional comparability in property tax rates does not demand identical rates between state-assessed and locally assessed properties. Rather, plaintiffs challenging rate disparities under constitutional theories must provide clear, judicially manageable standards for evaluating comparability. This ruling clarifies that broad constitutional principles of comparability and uniformity require specific, articulable standards to be actionable. The court's opinion is available online at: https://www4.courts.ca.gov/opinions/documents/C101678.PDF
(Blaine R. Dyas)

FLOODWATER AS PERSONAL PROPERTY? FIFTH DISTRICT COURT CLARIFIES GROUNDWATER CLASSIFICATION

Sandton Agriculture Investments III, LLC, et al. v. 4-S Ranch Partners, LLC,
109 Cal.App.5th 766, Case No. F086484 (5th Dist. 2025).

In a decision certified for *partial* publication, California's Fifth District Court of Appeal addressed a novel legal question: Can floodwaters that have seeped into an underground aquifer be classified and retained as personal property? The case involved the foreclosure of a 5,257-acre ranch in Merced County and a dispute over the rights to approximately 500,000 acre-feet of stored water allegedly worth hundreds of millions of dollars.

The borrower, 4-S Ranch Partners, argued that it retained ownership of this water post-foreclosure, asserting it had captured floodwaters and stored them underground as personal property. The lender, Sandton Agriculture Investments, countered that these water rights were appurtenant to the land and transferred with the property at foreclosure. The appellate court sided with the lender, marking a significant moment in the interpretation of California water law.

Background

Legal Classification of Floodwaters

At the heart of the dispute was whether the floodwater, once captured and allowed to seep into the aquifer beneath the property, retained a status of personal property or became real property as part of the land. Historically, California law recognizes water in its natural state, including percolating groundwater, as real property. The right to use such water is usufructuary, meaning the holder may use the water but does not "own" the corpus of the water itself.

The court clarified the classifications of water under California law, distinguishing between:

- Diffused surface water (from precipitation or springs not collected into defined streams),
- Stream water (flowing within a natural watercourse),
- Floodwater (overflow from watercourses onto land), and
- Percolating groundwater (water that has seeped into the earth and is not part of an underground stream).

Once floodwater has percolated into the soil and aquifer, it is no longer characterized as floodwater or personal property; it becomes percolating groundwater, which is legally considered part of the real property.

At the Trial Court

The trial court granted the lender's motion for summary adjudication, concluding

(1) the water was not personal property owned by borrower and (2) the rights to use of the water ran with the land and, thus, the lender acquired those rights at the foreclosure sale. Under California water law, allowing water to seep into an aquifer changes its legal classification to percolating groundwater, regardless of whether it was previously classified as floodwater or personal property. Percolating groundwater is in a "natural state" and, as such, "is part of the land." (*Copeland v. Fairview Land & Water Co.* (1913) 165 Cal. 148, 154 (*Copeland*).) Thus, summary adjudication of the lender's declaratory relief claim was proper.

The Court of Appeal's Decision

Dominion, Control, and Severance

4-S Ranch argued that by intentionally allowing floodwaters to inundate their land and seep into the aquifer for later extraction and sale, they had effectively exercised dominion over the water, converting it into personal property. However, the court disagreed. It emphasized that dominion and control are not maintained once the water percolates into the ground, as its behavior is governed by natural forces rather than human direction.

The court further anchored its conclusion in precedent requiring the severance of the water from the land before it can be considered personal property. This means water must be extracted or placed in portable receptacles before the classification can shift from real to personal property. Merely having plans or infrastructure for future extraction does not suffice.

Implications for Secured Transactions and Foreclosures

The distinction was critical because it affected whether the underground water was subject to the deed of trust. The original loan documents included broad definitions of "Water Rights" and "Water Assets," covering all forms of water, rights, and entitlements associated with the land. The appellate court held that because the floodwaters had percolated into the aquifer, they became part of the real property and transferred to the lender upon foreclosure.

This interpretation had a cascading effect on the borrower's claims. The court rejected arguments that the lender had failed to foreclose on the water assets or that the water should be separately appraised and excluded. Additionally, the borrower's attempt to list the water as personal property in its bankruptcy filings did not sway the court.

In rejecting 4-S Ranch's arguments, the court took care to ensure consistency with California constitutional and statutory provisions. It declined to break from over a century of precedent to create a new legal category of personal property water stored underground without severance from the land. The court emphasized that creating such a rule would significantly disrupt existing water rights frameworks, potentially requiring new legal doctrines or legislative intervention.

Moreover, the opinion highlighted that characterizing such water as personal property could undermine California's constitutional requirement that water use be reasonable and beneficial, since private ownership could imply a right to waste or misuse. In the end, the court held:

> Based on our conclusions that (1) the water in question was not personal property owned by 4-S and (2) the trial court properly granted summary adjudication of Sandton's claim for declaratory relief addressing the rights and interests Sandton held in the water, it follows that the SACC failed to state causes of action for declaratory relief, conversion, injunctive relief, or an easement. Consequently, the trial court properly sustained the demurrer to those causes of action.

Conclusion and Implications

This decision confirms and reinforces principles of California water law: water in its natural state, including percolating groundwater, is part of the land and therefore real property. Any right to extract and use such water is appurtenant to land ownership and cannot be segregated as personal property absent clear severance.

This ruling serves as a cautionary guidepost for landowners, water banks, and investors. Efforts to monetize floodwater storage must account for the fact

that once floodwaters percolate into the ground, they are no longer under the owner's exclusive control and are legally bound to the land. Those involved in financing, leasing, or foreclosing on agricultural and water-rich properties must carefully structure transactions to reflect this reality.

Finally, while the court left open the possibility that the legislature or California Supreme Court could revisit these principles in the future, it declined to establish a new doctrine permitting the retention of water rights as personal property post-infiltration. The court's *partially* published opinion is available online here: https://www4.courts.ca.gov/opinions/documents/F086484.PDF
(Darien Key)

LEGISLATIVE UPDATE

This Legislative Update is designed to apprise our readers of potentially important land use legislation. When a significant bill is introduced, we will provide a short description. Updates will follow, and if enacted, we will provide additional coverage.

We strive to be current, but deadlines require us to complete our legislative review several weeks before publication. Therefore, bills covered can be substantively amended or conclusively acted upon by the date of publication

California Environmental Quality Act

AB 35 (Alvarez)—This bill was re-referred to the Committee on Natural Resources following amendment on April 22, 2025. As amended, the bill would streamline California Environmental Quality Act (CEQA) review for qualifying clean hydrogen transportation projects. Qualifying projects would undergo a specialized clean hydrogen environmental assessment to accelerate permitting and approval, unless the project applicant elects otherwise. A clean hydrogen environmental assessment would not be required to analyze project alternatives. The bill also provides a mandatory approval timeline for qualifying projects.

AB 52 (Aguiar-Curry)—This bill was re-referred to the Committee on Local Government on April 24, 2025, and is awaiting hearing. This bill would amend provisions of previously enacted AB 52 (2014), which established a formal consultation process between lead agencies and California Native American tribes as part of the CEQA process. Among other things, the bill would define the duration of tribal consultation to include the point in time when the tribe requests consultation to the completion of implementation of mitigation measures for the project. The bill would also afford tribes the opportunity to participate in the technical studies relating to tribal cultural resources during project scoping, before the initial study and environmental review documents are drafted.

AB 295 (Macedo)—This bill was referred to the Committees on Natural Resources and Water, Parks, and Wildlife on February 10, 2025, and is awaiting hearing. The bill would extend application of The Jobs and Economic Improvement Through Environmental Leadership Act of 2021 to water storage projects, water conveyance projects, and groundwater recharge projects that provide public benefits and drought preparedness. The Act authorizes the Governor, until January 1, 2032, to certify environmental leadership development projects that meet specified requirements for certain CEQA streamlining benefits.

AB 404 (Sanchez)—This bill was referred to the Committee on Natural Resources on February 18, 2025, and is awaiting hearing. Existing law temporarily exempts certain prescribed fire and fuel reduction projects on federal lands to reduce the risk of high-severity wildfire from environmental review under CEQA, if the project has already undergone environmental review under the National Environmental Policy Act (NEPA). This bill would extend the exemption, and the requirements for notification of particular agencies under this exemption, indefinitely.

SB 130/SB 609 (Wicks)—Former SB 609 was absorbed into the Budget Trailer Bill, which was re-referred to the Committee on Budget on June 26, 2025. As reflected in the Budget Trailer Bill, the provisions of former AB 609 would provide an exemption from CEQA for housing projects that meet certain specified conditions, including being on a site that is not more than 20 acres or proposed for more than 10-15 dwelling units per acre in most places, being located in an urban area surrounded by urban uses, and meeting labor wage standards if proposed buildings would be over 85 feet in height. The project must also be consistent with applicable planning and zoning designations, and as a condition of the project's approval, the project proponent must complete a phase I environmental assessment. The exemption would also not apply to a project that requires demolition of a historic structure placed on a national, state, or local historic register. The bill also includes requirements for any housing project located within 500 feet of a freeway to address potential air quality pollution impacts and would preclude any project

with certain site-specific features, such as wetlands or prime farmland.

SB 71 (Wiener)—This bill was referred to the Committee on Natural Resources on June 9, 2025. The bill would expand an existing CEQA exemption for transportation plans to include additional projects, such as projects or plans that readjust transit routes. The bill would also eliminate the exemption's sunset date, extending it indefinitely. The bill would also expand an existing CEQA exemption for projects related to zero emission modes of public transportation to include a larger class of projects and would eliminate that exemption's sunset date. As amended, the bill would also exempt, until January 1, 2032, certain transit projects located in urbanized areas and for use by low-emission vehicles. The bill would also extend applicable time periods related to review and approval of environmental leadership transit projects.

SB 73 (Cervantes)—This bill was referred to the Committees on Environmental Quality and Housing on January 29, 2025, and is awaiting hearing. The bill would expand several existing CEQA exemptions and streamlining applicable to projects in transit priority areas to also cover projects in low vehicle travel areas. This bill would also modify and slightly broaden requirements applicable to CEQA exemptions for agricultural employee housing projects and infill housing projects near transit.

SB 231 (Seyarto)—This bill was held in committee and under submission on May 23, 2025. This bill would require that, on or before July 1, 2027, the Office of Land Use and Climate Innovation (formerly the Governor's Office of Planning and Research) consult with regional, local, state, and federal agencies to prepare and develop a technical advisory on thresholds of significance for greenhouse gas and noise pollution effects, which local agencies may elect to adopt.

SB 232 (Seyarto)—This bill was held in committee and under submission on May 23, 2025. This bill would require that the Office of Land Use and Climate Innovation conduct a study to evaluate how "locked in guidelines" could provide regulatory certainty for developers and lead agencies. The study would assess how those guidelines could affect the efficiency of the environmental review process pursuant to CEQA and evaluate whether the guidelines impact the quality and thoroughness of environmental reviews or create unintended environmental risks. As defined, "locked in guidelines" refers to guidelines adopted pursuant to Section 21083 of the Public Resources Code that are in effect at the time of the first issuance of the notice of preparation for a project. Those guidelines would then apply to the project throughout the course of the environmental review process, regardless of any later changes to the guidelines.

SB 252 (Valladares)—This bill was referred to the Committee on Environmental Quality and the Energy, Utilities, and Communications Committee on February 14, 2025, and is awaiting hearing. The bill would exempt projects to underground powerlines from the requirements of CEQA.

SB 424 (Grove)—This bill was re-referred to the Committees on Environmental Quality and Natural Resources and Wildlife on April 2, 2025, and is awaiting hearing. The bill would exempt from the requirements of CEQA a project developed solely to serve an urgent public health or housing need, as specified, that is within the boundaries of an expired regional habitat conservation plan, and that had an environmental review completed consistent with the requirements of the regional habitat conservation plan as the plan existed before its expiration.

SB 131/SB 607 (Wiener)—Former SB 607 was absorbed into the Budget Trailer Bill and was re-referred to the Committee on Budget on June 27, 2025. This bill would streamline environmental review for projects that do not meet all eligibility requirements for reliance on a categorical or statutory exemption, focusing the scope of environmental review to the project aspect or impact that resulted in inapplicability of the exemption, with exceptions for distribution centers and oil and gas infrastructure projects. This bill would also exclude from the administrative record required for CEQA litigation any internal agency communications not presented to the project decision-makers, with specified exemptions.

California Coastal Act

AB 357 (Alvarez)—This bill was read for the first time in the Senate on June 9, 2025, and referred to the Committees on Natural Resources and Water and Housing on June 18, 2025. As amended, the bill would require the Coastal Commission to approve or deny a complete application for a coastal development permit for a student housing project or a faculty and staff housing project, as defined, within 90 days of submittal, except in certain defined circumstances.

Density Bonus Law

AB 87 (Boerner)—This bill was re-referred to the Committee on Local Government on June 25, 2025. As amended, this bill would prohibit an incentive or concession granted for a mixed-use development containing a hotel, motel, bed and breakfast inn, or other visitor-serving purpose from applying to the portion of the proposed development containing such use.

SB 92 (Blakespear)—This bill was amended and re-referred to the Committee on Housing and Community Development on June 23, 2025. As amended, this bill would specify that a concession and inventive shall not result in a proposed project with a commercial floor area greater than two and a half times what is allowed under the base zoning. This bill would also specify that certain provisions of the Density Bonus Law do not require a local government to approve, grant a concession or incentive requiring approval of, or waive or reduce development standards otherwise applicable to transient lodging as part of a housing development, except as specified.

General Plans

AB 39 (Zbur)—This bill was read for the first time in the Senate on June 4, 2025 and referred to the Committees on Local Government and Energy, Utilities, and Communications on June 18, 2025. As amended, the bill, called the Local Electrification Planning Act, would require each city, county, or city and county with a population greater than 75,000 residents to develop or integrate an electrification plan into their General Plans by January 1, 2030. This plan must include locally-based goals, policies, and implementation measures to promote electric vehicle (EV) charging and other zero-emission vehicle fueling infrastructure, building electrification, and clean energy generation, with a particular focus on supporting disadvantaged communities, low-income households, and small businesses.

Housing Elements

AB 36 (Soria)—This bill was read for the first time in the Senate on May 8, 2025, and referred to the Committee on Housing on May 21, 2025. As amended, the bill aims to refine the process by which local jurisdictions are designated as "prohousing" by the Department of Housing and Community Development (HCD). This designation gives local governments priority for state funding related to housing and infrastructure. Existing law requires HCD to designate jurisdictions as prohousing pursuant to emergency regulations adopted by HCD, and to report those designations to the Office of Land Use and Climate Innovation. The bill would require HCD to adopt permanent regulations to determine which jurisdictions qualify as prohousing.

AB 610 (Alvarez)—This bill was read for the first time in the Senate on June 9, 2025, and referred to the Committees on Housing and Local Government on June 18, 2025. The bill would require General Plan Housing Elements to include a governmental constraints disclosure statement and would prohibit any new or amended covered governmental constraint from being adopted within three years from the date the Housing Element or amendment is considered in substantial compliance with the Housing Element Law unless, it was both included in the government constraints disclosure statement and the local government has competed all the housing element program commitments to eliminate or mitigate covered governmental constraints from the prior and current planning periods.

SB 233 (Seyarto)—This bill was amended and re-referred to the Committee on Local Government on June 19, 2025. This bill would amend the Planning and Zoning Law's requirement that HCD meet and consult with each council of governments (council) to determine the existing and projected needs for housing in each region by a specified deadline. Specifically, for the seventh revision of the housing element, this bill would require HCD to meet and consult with each council at least 38 months prior to the scheduled revision (except for certain specified

councils) and for the eighth and subsequent revisions of the housing element, the bill would require all meetings to occur at least 38 months prior to the scheduled revision. Under existing law, these meetings need occur only 26 months prior to the scheduled revision for the fourth and subsequent revisions of the housing element.

SB 262 (Wahab)—This bill was read for the first time in the Assembly on June 4, 2025, and referred to the Committees on Housing and Community Development and Local Government on June 9, 2025. Existing law, section 65589.9 of the Government Code, creates incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. As amended, this bill would expand the definition of "prohousing local policies" under the Planning and Zoning Law to include policies that keep people housed and would specify additional examples of local policies.

Planning and Zoning

AB 301 (Schiavo)—This bill was amended and re-referred to the Committee on Appropriations on June 19, 2025. Existing Planning and Zoning Law requires local agencies to compile a list of information needed to approve or deny a post-entitlement phase permit. Existing law also requires the agency to provide the public with exemplars of approved applications and sets timelines for completing review of these applications. As amended, this bill would apply the same rules to post-entitlement permitting conducted by a state agency. The bill would require a state agency to make the information list with examples of a complete, approved application and a complete set of post entitlement phase permits available on the agency's website by January 1, 2026.

AB 660 (Wilson)—This bill was amended and re-referred to the Committee on Local Government on June 25, 2025. As amended, this bill would prohibit a local agency from requiring or requesting more than two plan check and specification reviews in connection with an application for a building permit. The bill would further revise the timelines for a determination on appeal of a finding that a post entitlement phase permit application is incomplete or noncompliant to not later than 30 business days for housing projects of less than 25 units and no later than 45 days for housing development projects with 26 or more units. The bill would further authorize the applicant to seek a writ of mandate to compel approval of the application if the local agency denies the appeal, and the writ must be granted if there is substantial evidence that a reasonable person could rely on to find that the application is complete and compliant with applicable standards.

AB 712 (Wicks)—This bill was ordered to the Senate on May 12, 2025, and referred to the Committees on Housing and the Judiciary on May 21, 2025. The bill would entitle an applicant for a housing development project to reasonable attorney's fees and costs and would require a court to impose fines on a local agency where the applicant is a prevailing party in an action brought to enforce compliance with a housing reform law as applied to the applicant's housing development project against the public agency. The bill would also prohibit a public agency from requiring the applicant to indemnify, defend, or hold harmless the public agency in any action alleging the public agency violated the applicant's rights or deprived the applicant of the benefits or protection provided by a housing reform law.

AB 920 (Caloza)—This bill was read for the first time in the Senate on May 20, 2025, and referred to the Committees on Local Government and Housing on May 28, 2025. This bill would require each local agency with a population of at least 150,000 to create a centralized application portal available on its website to applicants for housing projects.

AB 1007 (Rubio)—This bill was referred to the Committee on Local Government on June 4, 2025. The bill would reduce the time period during which a responsible agency may approve or disapprove a project under the Permit Streamlining Act from 90 to 45 days. Application of the timeline requires both lead agency approval and submittal of a complete application to the responsible agency to commence.

AB 1276 (Carrillo)—This bill was amended and re-referred to the Committee on Housing on June 10, 2025. The bill would revise provisions of the Housing Accountability Act to expand the vesting of ordinances, policies, and standards adopted and in effect when a SB 330 preliminary application was submitted

to include materials requirements, post entitlement permit standards, and any rules, regulations, determinations, and other requirements adopted or implemented by other public agencies. The bill would also provide that, for purposes of the Planning and Zoning Law, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision adopted or implemented by a public agency, if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

AB 1294 (Haney)—This bill was amended and re-referred to the Committee on Housing on June 12, 2025. This bill would require that an application for a housing development entitlement be deemed complete for purposes of the Permit Streamlining Act upon payment of the permit processing fees and completing specified requirements, as applicable. This bill would require the Department of Housing and Community Development to create a uniform entitlement application for housing projects to be used in lieu of local application forms. This bill would further prohibit local agencies from requiring additional information for the entitlement application unless required by statute.

SB 9 (Arreguín)—This bill was amended and re-referred to the Committee on Local Government on June 19, 2025. Existing Planning and Zoning Law provides for the creation of an accessory dwelling unit by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards. This bill would invalidate the ordinance if the local agency fails to submit a copy to the Department of Housing and Community Development within 60 days of the adoption or fails to respond to the Department's findings that the ordinance does not comply with the specified standards within 30 days.

SB 79 (Wiener)—This bill was amended and re-referred to the Committee on Housing and Community Development on June 23, 2025. The bill would establish zoning standards near major transit stops that allow for multi-family housing up to seven stories, with lower height standards extending up to a half a mile away and supersedes more restrictive local standards. This bill would also streamline the permitting process for housing built within half a mile of major public transit stops and would allow local transit agencies to develop at the same or greater density on land they own, notwithstanding contrary local standards.

SB 489 (Arreguín)—This bill was re-referred to the Committee on Housing and Community Development on June 18, 2025. The bill would require local agency formation commissions to update their written policies and procedures to include any forms necessary for a complete application to the commission concerning a proposed change of organization or reorganization. The bill would also require each commission to provide access to its written policies and procedures through its website. The bill would also revise provisions of the Permit Streamlining Act to define "development project" to include a housing development project, notwithstanding provisions in other laws making such projects ministerial projects, projects that involve no discretionary approvals and projects that involve both discretionary and nondiscretionary approvals. The bill would also require a public agency, for each approval issued in connection with a housing development project, to publish online until January 1, 2030, the criteria that the public agency will apply in order to determine the completeness of the development application and the name of the approval.

SB 677 (Wiener)—This bill failed passage in Committee and was granted reconsideration on April 23, 2025. The bill would strengthen two recently enacted housing laws SB 9 (2021) and SB 423 (2024) by ensuring the right to build duplexes and fourplexes in residential neighborhoods and strengthening streamlining for multi-family properties in urban areas.

Public Records Act

AB 343 (Pacheco)—This bill was re-referred to the Committee on Appropriations on June 25, 2025. The California Public Records Act exempts from disclosure specified information relating to elected or appointed officials and makes specified disclosures of information relating to elected or appointed officials a

crime. This bill would include certain types of retired judges to be included in the term "elected or appointed official."

AB 370 (Carrillo)—This bill was re-referred to the Committee on Appropriations on June 17, 2025. Under existing law, the California Public Records Act requires agencies to promptly determine whether a request seeks copies of disclosable public records in possession of the agency and then to notify the requester of the determination. However, if there are "unusual circumstances," as defined, an agency may delay this notification by 14 days. This bill defines "unusual circumstances" to allow for agencies experiencing a cyberattack to delay notification until the agency regains its ability to access its electronic servers and documents. This bill would also only allow unusual circumstances to apply during a state of emergency if the emergency directly affects the agency's ability to timely respond to requests.

Surplus Land Act

AB 76 (Alvarez)—This bill was read for the first time in the Senate on May 8, 2025, and referred to the Committee on Local Government on May 21, 2025. The bill would change how local agencies calculate affordable housing obligations when disposing of surplus land that includes housing for students, faculty, and staff. The bill revises two key provisions governing exempt surplus land in sectional planning areas. First, it specifies that the requirement to dedicate 25 percent of units to lower-income households applies only to units not designated for academic institution members. Second, it clarifies that the minimum density requirement of ten units per acre must account for all residential units in the planning area, including those designated for academic institution occupants and meet other certain requirements. (Amy Higuera)

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