

CEQA & Housing

The California Environmental Quality Act (CEQA) is an important tool for advancing environmental justice (EJ) and protecting the rights of communities disproportionately impacted by pollution and poverty. While CEQA “streamlining” policies have been viewed as the best way to address our state’s housing shortage, such ideas are based upon misleading narratives and misinformation.

We need to build affordable housing that is safe and healthy while ensuring that our state’s most vulnerable residents are not inadvertently exposed to toxic hazards and other dangers in their own homes. Modifying CEQA to expedite or weaken the environmental review process would severely limit our ability to identify significant negative health impacts, and would disproportionately hurt low-income communities and communities of color.

Policymakers that are committed to achieving healthy communities and protecting civil rights should not be misled into watering down CEQA for the purposes of addressing our state’s housing and affordability crisis



Residents attend a hearing for proposed warehouse development in South Fresno.

What are the right solutions for low-income communities of color?

While the CA Legislature must work to tackle the housing crisis for all Californians, it must prioritize the needs of disadvantaged communities and communities of color that have experienced a legacy of discriminatory land use and housing practices, including displacement. This means working closely with impacted residents and community-based organizations to advance the following solutions:

- Expanding affordable housing opportunities, prioritizing housing that is affordable for extremely low and very low income residents, and investing in infrastructure and services that can facilitate housing development in under-resourced communities.
- Requiring and encouraging stronger tenant protections, such as by eliminating restrictions on local rent control laws and guaranteeing a right to counsel in housing court.
- Creating strong anti-displacement and local hire requirements for new development and as a condition for receiving state funding.
- Enforcing local governments’ housing plans and fair housing requirements so that communities can access the affordable housing they need.

Environmental justice means creating healthy and affordable housing for everyone, especially for communities with fewer resources and more barriers. To do this, we must also acknowledge the role that planning decisions play in the housing crisis, which disproportionately concentrate toxic and polluting land uses in disadvantaged or EJ communities—leading to worsening housing quality, stability, and choice in these neighborhoods.

California Environmental Justice Alliance (CEJA)

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CEQA Facts

MYTH #1

CEQA hurts low-income communities and people of color.

FACT

CEQA protects the basic rights of disadvantaged or EJ communities in California.

These rights include the right to clean air and water, the right to participate in local land use decisions, and the right to affordable housing and good schools free from pollution and other harms. A strong CEQA can protect highly impacted EJ communities from developments that produce environmental burdens – from refineries to warehouses to housing.

MYTH #2

CEQA is inhibiting the creation of housing.

FACT

Development costs and the local planning process are more likely to determine the rate of housing production.

In 2018, an Association of Environmental Professionals (AEP) survey of 46 jurisdictions revealed that issues such as high development costs and low site availability were some of the top barriers to housing development in CA.¹ In addition, a 2017 UC Berkeley study of five Bay Area cities found that local planning processes and local decision-makers have a much greater influence over the pace of housing development in CA, rather than CEQA.²

MYTH #3

CEQA must be streamlined in order to increase housing production in our state.

FACT

CEQA has already been modified or “streamlined” many times over the years to expedite judicial review and create exemptions for projects such as housing. Some exemptions include:

- Ministerial actions (§ 21080(b)(1))
- Mitigation of an emergency (§ 21080(b)(4); Guidelines, § 15269(c))
- Existing facilities, replacement, or reconstruction (Guidelines, § 15301, § 15302)
- Small development and construction projects (Guidelines, § 15303, § 15304, § 15311)
- Affordable housing projects (§ 21159.23; Guidelines, § 15194)
- Urban residential projects (§ 21159.24; Guidelines, § 15195)
- Urban infill projects (Guidelines, § 15332)
- Urban residential or mixed use housing projects in unincorporated communities (§ 21159.25)³
- Agricultural housing projects (§ 21159.22; Guidelines, § 15193)
- Residential, employment center, or mixed-use residential project in a transit priority area (§ 21155.4)⁴
- Transit priority and residential sustainable communities projects (§ 21155.1)⁵

¹ Association of Environmental Professionals (2019). CEQA and Housing Production: 2018 Survey of California Cities and Counties. P. iv. Retrieved from: https://www.califaep.org/images/public_policy/CEQA-and-Housing-Report-1-30-19.pdf.

² O’Neill, M., Gualco-Nelson, G. and Biber, E. (2018). *Getting it Right: Examining the Local Land Use Entitlement Process in California to Inform Policy and Process*. Pp. 16-18. Retrieved from: https://www.law.berkeley.edu/wp-content/uploads/2018/02/Getting_It_Right.pdf.

³ AB 1804 (Berman), Ch. 670, Stats. 2018.

⁴ SB 743 (Steinberg), Ch. 386, Stats. 2013.

⁵ SB 375 (Steinberg), Ch. 728, Stats. 2008.

CEQA *by the* NUMBERS

- **Annual CEQA litigations are actually quite low.** From 2002 to 2015, California only averaged about 195 CEQA-related lawsuits per year, **with no increasing pattern over time.**¹
- **CEQA litigation rates are also low.** From 2002 to 2015, **fewer than 1 out of every 100 projects** reviewed under CEQA resulted in a lawsuit, excluding exempt projects. From 2013 to 2015, that rate was even lower at **0.7 percent.**²
- **Many housing projects already use exemptions and/or streamlined review.** A 2018 survey of local jurisdictions by the Association of Environmental Professionals (AEP) found that, from 2015 to 2017, **only 5.6 percent** of housing projects containing 5 or more units were subject to a full EIR, while **51.6 percent** used some form of CEQA exemption or streamlined review (for 1,417 total projects).³ However, while the study shows that many housing projects employ some form of CEQA streamlining, the data also allude to the fact that streamlining has not necessarily led to sufficient housing production.
- **Various studies show that CEQA is NOT a major barrier to development.** Currently, there are no studies that calculate the cost of CEQA compliance or the law's financial effect on development projects.⁴ Furthermore, the 2018 AEP report found that between 2015 to 2017, **only 3.8 percent** of housing projects were withdrawn (mostly due to developer issues such as bankruptcy and changes to the project).⁵

CEQA Lawsuits in California, 2002 - 2015



Data compiled from "The Litigation Myth," David Petit and Tom Adams, NRDC, 2013; *In the Name of the Environment*, Holland & Knight, 2013; and BAE for this study, 2016. Graph retrieved from: <https://rosefdn.org/wp-content/uploads/2016/08/CEQA-in-the-21st-Century.pdf>, p.19

¹ The Rose Foundation (2016). CEQA in the 21st Century. P. 19. Retrieved from: <https://rosefdn.org/wp-content/uploads/2016/08/CEQA-in-the-21st-Century.pdf>

² Ibid, p. 22.

³ Association of Environmental Professionals (2019). CEQA and Housing Production: 2018 Survey of California Cities and Counties. P. 10. Retrieved from: https://www.califaep.org/images/public_policy/CEQA-and-Housing-Report-1-30-19.pdf.

⁴ The Rose Foundation (2016). CEQA in the 21st Century. P. ii. Retrieved from: <https://rosefdn.org/wp-content/uploads/2016/08/CEQA-in-the-21st-Century.pdf>

⁵ Association of Environmental Professionals (2019). CEQA and Housing Production: 2018 Survey of California Cities and Counties. P. 16. Retrieved from: https://www.califaep.org/images/public_policy/CEQA-and-Housing-Report-1-30-19.pdf.

CASE STUDIES

How CEQA Advances EJ *and* Protects Housing

Case Study: **RICHMOND**



In 2007, the city of Richmond proposed a plan to develop single-family and multi-family homes for low-income elderly residents. During public scoping meetings for the draft Miraflores Senior Housing plan, several issues came to light: poor air quality from a nearby freeway, possible lead contamination in the soil and groundwater, and a lack of cultural and historic preservation strategies. As a result, the project's Final Environmental Impact Report (EIR) utilized feedback from various state and local agencies, community-based organizations, elected officials, and local residents to identify important improvements to the plan. The Final EIR added strategies to mitigate the poor air quality,

water quality, and noise impacts to less-than-significant levels. It also included plans to preserve the historic character of buildings, added key sustainability strategies, and improved the process for site clean up.

Instead of being a barrier to development, CEQA provided a process for engaging the public in meaningful and productive ways. Through the EIR, serious environmental and health-related issues were successfully identified early on, leading to the creation of crucial remediations and solutions such as the replacement of contaminated soil and groundwater. In sum, CEQA was instrumental in ensuring that the Miraflores affordable housing development would not lead to negative impacts on vulnerable elderly residents or the city. After completing the Final EIR, the city was able to issue permits to develop 80 affordable housing units for low-income seniors.

Case Study: **SOUTH FRESNO**

In 2017, the city of Fresno approved a 2.1 million square foot industrial park next to homes and a local elementary school with no public notice to residents. After performing a cursory environmental review, the city stated that the project would not produce significant impacts. In truth, the project stood to dramatically impact resident health and housing quality in one of the most polluted neighborhoods in the state, generating more than 6,200 truck and car trips per day on roads shared by homes. Local residents were already suffering the impacts of two other mega warehouses in the area that produced thousands of truck trips each day.

In response, residents came together to hold the city of Fresno accountable for not studying and mitigating the new industrial park's impacts under CEQA, and for not providing adequate notice and a scoping meeting according to the law. Ultimately, the city, at the developer's request, rescinded the project's permits in recognition that it had not studied or mitigated the projects' impacts on South Fresno neighborhoods. In the end, South Fresno residents were successful in using CEQA to protect their health and rights, and gained new knowledge to safeguard their health and housing when future developments are proposed.



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