Blogs
May 21, 2015
California Land Use & Development Law Report

Court Rejects Another Attempt to Stop New Kings Arena

Opponents of the Sacramento Arena project took another shot at halting the new Kings arena project, challenging the city's certification of the project EIR on a variety of grounds. But the Court of Appeal upheld the city's certification of the EIR, rejecting every one of the opponents' arguments. *Saltonstall v. City of Sacramento* , 234 Cal. App. 4th 549 (2015). **The Project** The Sacramento Kings have played in Sleep Train arena, located in the Natomas area of Sacramento, since it opened in 1988. In March 2013, an investor group presented a plan to acquire the Sacramento Kings, construct a new downtown arena in partnership with the City, and keep the team in Sacramento on a long-term basis. The city council approved a preliminary nonbinding term sheet for development of a new entertainment and sports center in downtown Sacramento at the site of the Downtown Plaza. In 2013, the National Basketball Association approved the sale of the Kings to the investor group, reserving the right to acquire and relocate the franchise to another city if a new arena was not opened in Sacramento by 2017. To facilitate meeting this deadline, the Legislature amended CEQA exclusively for the downtown arena project to expedite the environmental review process. The legislation also specifically allowed the city to prosecute an eminent domain action for the arena site prior to completing CEQA review. Consistent with these accelerated deadlines, the city engaged in an expedited review process starting in April 2013. In January 2014, the city council adopted a resolution to acquire the site for the new arena by eminent domain and, in May 2014, certified the final EIR and approved the project. Project opponents promptly sued, challenging the constitutionality of state legislation that modified several deadlines under CEQA. The court of appeal rejected the opponent's constitutional challenge to the state CEQA legislation. Undeterred, opponents filed this second action challenging various aspects of the CEQA review performed for the project. **Premature Commitment** Opponents argued that the city committed itself to the downtown project before completing CEQA review by entering into the term sheet and prosecuting the eminent domain action for the 600 Block of K Street prior to completion of environmental review. When a project will arguably have a significant impact, CEQA requires a public agency to prepare an EIR prior to making a decision that commits agency to a "definite course of action" in regard to the project. The appellate court found that the city had not committed itself to a definite course of action prior to certifying the EIR. The court concluded that the term sheet did not constitute an impermissible commitment to the project. The term sheet included a disclaimer that the city had no obligation to build, finance, or approve the project until it completed its environmental review and secured all necessary permits for the project. The term sheet further stated the city retained sole discretion to weigh the environmental consequences and to reject the project entirely. Moreover, the term sheet was not a binding contract. The court also concluded that the exercise of eminent domain prior to completion of environmental review was both permissible under CEQA and explicitly sanctioned under the state legislation adopted for the Kings arena project. **Project Alternatives** The court rejected opponents' argument that the city failed to study a reasonable range of alternatives by not considering a remodeled Sleep Train Arena. The city studied a "no project" alternative that would have continued use of Sleep Train Arena as well as a new arena in the Natomas area, and both of these alternatives failed to meet the City's objectives for the project to revitalize its downtown area. The court therefore concluded that the city sufficiently considered alternatives in the Natomas area and was not required to specifically study a remodeled Sleep Train Arena alternative. **Other CEQA Issues** Opponents also argued that while the EIR had studied the timing and extent of traffic congestion on I-5 that would likely result from the project, it was defective for failing to study the impacts on interstate traffic on I-5. The court stated that the City had no obligation to separately consider the effect of the project on motorists subject to the same traffic conditions "simply because their trip origins and destinations might have been different than local commuters." The court also rejected opponents' argument that the city failed to study post-event crowd safety and potential for

violence because "mere speculation about possible crowd violence and its possible effect on the environment" does not require EIR review.

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

View the blog