

Losing Plaintiff Cannot Recover Legal Fees

Commenting that "we have not found a threat of victory in this record," the court of appeal ruled against a citizens' group that brought a motion for attorneys' fees after losing a CEQA challenge in the trial court. [Coalition for a Sustainable Future in Yucaipa v. City of Yucaipa](#), 238 Cal. App. 4th 513 (2015). In 2005, Target entered into a contract to purchase land for a shopping center. The City Council approved the shopping center project in October 2007 based on an EIR. Later that same month, Target sued to force the property owner to complete the land sale. Plaintiff, a citizens' group, then filed this action challenging the project entitlements under CEQA. Target defended the action on the City's behalf pursuant to an indemnity requirement in its conditions of approval. The trial court ruled against the plaintiff. While plaintiff's appeal was pending, Target abandoned the project and withdrew its defense of the City. The City then revoked the shopping center entitlements, rendering the appeal moot. Plaintiff sought attorneys' fees, claiming that its CEQA lawsuit, and specifically its appeal from the trial court's judgment, was the "catalyst" that motivated the City to revoke the entitlements. The appellate court had no difficulty concluding otherwise. Citing City Council hearing minutes indicating that the entitlements were revoked because Target had breached the indemnity condition of approval, the court determined that the City "did not revoke the entitlements for any reason related to the EIR or any violation of CEQA." Consistent with prior decisions and common sense, the court held that the "fact that [plaintiff] filed an appeal from the adverse judgment did not convert the action into a meritorious one under the catalyst theory."

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