

## **Court Rebuffs CEQA Challenge to Subway Tunnel Under Beverly Hills High**

Beverly Hills and its school district have failed to persuade the court of appeal to block construction of a subway line beneath Beverly Hills High School. [\*Beverly Hills Unified School District v. Los Angeles County Metropolitan Transportation Authority\*](#), 241 Cal. App. 4th 627 (2015). The court upheld the CEQA analysis for the project against claims that significant new information had been disclosed relating to the viability of alternatives, and that localized air pollution and public health impacts had not been adequately studied. The Los Angeles County Metropolitan Transportation Authority prepared and certified an environmental impact statement/environmental impact report for extension of Metro's subway system to the Westside of Los Angeles. The EIS/EIR studied two alternative location options for a Century City station and recommended locating the station at Constellation Boulevard and Avenue of the Stars. Metro approved the subway project with the Constellation station location and a related tunnel alignment beneath the high school. The City and the school district consistently objected to the tunnel location and filed petitions for writ of mandate following Metro's approval. The court rejected two CEQA claims the City and/or the school district raised against the project. First, the court held that Metro was not required to prepare and recirculate a new draft EIS/EIR for public comment after introducing in the final EIS/EIR new information in the form of a fault investigation and tunnel safety reports. The court found that the new information "merely confirmed" that the alternative Century City station location was not viable due to a potential seismic hazard, and "also confirmed and expanded upon the draft EIS/EIR's analysis of the potential environmental impacts from the Constellation station." Contrary to the plaintiffs' claims, the draft EIS/EIR fully evaluated both station options and addressed environmental issues arising from tunneling. The court also held that Metro did not trigger an obligation to recirculate by issuing an addendum to the final EIS/EIR that revised reported air quality impacts. Second, the court upheld the EIS/EIR's air quality analysis, concluding that CEQA did not require an assessment of localized air pollution and public health impacts from the project's construction. The court determined that Metro was not required to analyze air quality impacts against localized significance thresholds, given that the agency analyzed the impacts against thresholds established by the regional air quality management district. Similarly, the EIS/EIR appropriately included a technical report that identified potential adverse health effects from exposure to identified pollutants from construction emissions; the document did not also need to include "an analysis showing how the actual construction emissions will specifically impact public health." Additionally, the court of appeal rejected non-CEQA claims raised by the City, concluding that Metro did not violate Public Utilities Code statutes when conducting a transit hearing requested by the City, the City received a full and fair hearing, and substantial evidence supported Metro's decision and findings of fact.

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