

## Court of Appeal Rejects Claim That Sustainable Communities Strategies May Rely on Statewide GHG Reduction Mandates

The First District Court of Appeal has upheld the San Francisco Bay Area's Sustainable Communities Strategy. The court rejected the claim that such strategies must account for the effects of statewide greenhouse gas reduction mandates. *Bay Area Citizens v. Association of Bay Area Governments*, 248 Cal. App. 4th 966 (2016). The Sustainable Communities and Climate Protection Act of 2008 (SB 375) is one of several major statutes California has enacted in its efforts to reduce GHG emissions. SB 375 generally requires each of the state's metropolitan planning organizations (MPOs) to adopt a "sustainable communities strategy" demonstrating how specified land use changes and transportation strategies would enable the region to meet GHG reduction targets set specifically for that region by the California Air Resources Board. The Association of Bay Area Governments and the Metropolitan Planning Commission constitute the MPO for the San Francisco Bay Area. The MPO adopted its first sustainable communities strategy, Plan Bay Area, in 2013. Lawsuits ensued, some alleging that Plan Bay Area did too little to reduce GHG emissions and some, like Citizens', alleging that the plan called for draconian and unnecessary land use changes. Citizens alleged that SB 375 expressly required MPOs to "take into account" GHG emission reductions that will be achieved through statewide vehicle emission standards, low carbon fuel standards, and other mandates, and that once these statewide mandates were taken into account, no land use changes were needed for the Bay Area to achieve the state's GHG emissions goals. Therefore, Citizens argued, the MPO violated CEQA by describing the project only in terms of GHG reductions that could be achieved through regional land use and transportation policy changes, and by declining to analyze alternatives that did not include such changes. After reviewing the language of SB 375, its legislative history, and its interpretation by the Air Resources Board, the court rejected Citizens' claims. The court noted that under SB 375, the Board, in setting GHG reduction targets for each MPO, took the statewide mandates into account, and that each MPO was obligated, in its Sustainable Communities Strategy, to identify land use and transportation planning changes that would achieve *additional* GHG reductions. Fundamentally, the court observed, Citizens' argument was "that the Legislature, via SB 375, launched a major new climate protection initiative requiring regional agencies to develop regional land use and transportation strategies through an elaborate planning process that in the end would be superfluous because the agencies could meet the Board's regional emissions reduction targets simply by invoking reductions already expected from pre-existing statewide mandates." "This," the court said, "makes no sense."

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