

## **Untimely CEQA Suit Barred Regardless of Substantive Merits**

The court of appeal held that CEQA claims filed more than 30 days after the City filed a facially valid Notice of Determination were barred by the statute of limitations regardless of whether the agency lacked authority to approve the project or make the CEQA determination. [\*Coalition for an Equitable Westlake/MacArthur Park v. City of Los Angeles\*](#), 47 Cal.App.5th 368 (2020). The case involved a mixed-use project consisting of a hotel, a residential tower, and a multi-purpose center with a theater. The Deputy Advisory Agency for the City approved the project's vesting tentative map and a mitigated negative declaration (MND) for the project. The City filed an Notice of Determination advising that the Agency had approved the tentative map and the MND, and made mitigation measures a condition of project approval. The NOD stated that its filing started a 30-day statute of limitations on court challenges to the approval of the project.



Petitioner filed suit challenging the City's actions, arguing the City had failed to disclose, analyze, and mitigate the Project's significant adverse environmental impacts and that an EIR was required under CEQA. On appeal, the court found that because the petitioner filed its petition almost a full year after the NOD was issued, its CEQA claims were time-barred. The court noted that there are only two situations in which an NOD does not trigger the statute of limitations: (1) if the NOD is invalid on its face because the information required by the CEQA Guidelines is missing or incorrect; and (2) if the NOD is filed before a decision-making body has approved the project. The court concluded that petitioners could not make any credible argument that the NOD was defective for failing to include or accurately state all the information required by the CEQA Guidelines, since the document, on its face, included all of the required information. Nor was the court persuaded by petitioner's argument that issues regarding the Agency's decision-making authority, or the structure of the Project and CEQA approvals, affected the court's analysis of whether the NOD triggered the statute of limitations. These arguments, the court said, constituted substantive challenges to the validity of the project approval, similar to those rejected by the California Supreme Court in a similar context, and confused the timeliness of a lawsuit with its merits. Because the suit was not timely filed, petitioner's substantive challenges, no matter how meritorious, could not be considered by the court.

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