

A Revised and Recirculated Draft EIR That Entirely Replaces the Prior Draft EIR Is Not Required to Summarize Each Change Made to the Prior Draft

The court rejected a claim that the city violated CEQA Guidelines section 15088.5(g) by failing to summarize each of the revisions to a draft EIR made by a revised and recirculated draft EIR. *Save Civita Because Sudberry Won't v. City of San Diego*, 2021 WL 5937417 (No. D077591, 4th Dist. 1st Div., December. 16, 2021). The original draft EIR was prepared as a program EIR that addressed a proposed amendment to the circulation element of a community plan to add a road connection. The draft EIR was limited to the plan amendment and did not evaluate the impacts that would result from constructing the road. In response to critical public comments, the city elected to replace the draft program EIR with a revised draft EIR that provided a project-level analysis of the impacts of construction and operation of the road. CEQA Guidelines section 15088.5(g) requires that when a lead agency revises a draft EIR and recirculates the revised draft for review and comment, the revised draft EIR must "summarize the revisions made to the previously circulated draft EIR." The court found the summary in the revised draft EIR sufficient under this standard. The revised draft EIR made it clear that while the first draft EIR had evaluated the community plan amendment at a program level, the revised draft EIR was a project-level EIR which entirely replaced the prior EIR. The court rejected the argument that the revised draft EIR should have specifically described each change made to the prior draft EIR. The city argued that the prior draft EIR had been revised so extensively that a summary of each of the changes made to it would not provide useful information. According to the court, it was sufficient that the revised EIR explained that it entirely replaced the prior EIR, made clear the overall nature of the changes, and gave notice that the final EIR would respond to comments on the revised draft EIR, but not to comments on the prior draft EIR it replaced.

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