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# AB 1633: The Housing Accountability Act

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The Housing Accountability Act (HAA) requires local agencies to approve housing projects that meet objective zoning, general plan, subdivision, and design standards unless there is a specific, adverse impact upon public health and safety that cannot be mitigated. AB 1633 allows applicants to sue local agencies that use CEQA delays to effectively disapprove, render financially infeasible, or downsize a project without having actually voted to do so. Specifically, AB 1633 expands what it means to disapprove housing under the HAA to include: (1) when a local agency fails to make a determination of whether the project is exempt from CEQA, or commits an abuse of discretion in that determination; and (2) when a local agency fails to either require further study or adopt a negative declaration or addendum for the project, certify an EIR, or approve another environmental document for the project, or commits an abuse of discretion in doing so.

To bring an action under AB 1633, the project must meet the following criteria:

1. The site may NOT be located in: the coastal zone, prime farmland, wetlands, hazardous waste sites, flood hazard areas, habitat for protected species, or high fire hazard severity zones.

2. The site must be in an urbanized area and meet at least one of the following: (a) be located within one-half mile of a high-quality transit corridor or a major transit stop; (b) be located in a very low vehicle travel area; (c) be proximal to six or more amenities; or (d) have urban uses adjoining at least 75% of its perimeter. ("Proximal" amenities include a bus station or ferry terminal within one-half mile, or any grocery store, public park, community center, pharmacy or drugstore, hospital or medical clinic, public library, or school within one mile (two miles for rural areas)).

3. The density of the housing project must meet or exceed 15 units per acre.

For projects seeking an exemption under CEQA, they must establish that there is substantial evidence in the record that the project is eligible for the CEQA exemption sought and that use of the exemption is not prohibited by Section 15300.2 of the CEQA guidelines, which bars the use of exemptions if the proposed project generates cumulative impacts, is located on a hazardous waste site,



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or has significant effects to the environment, scenic highways, or historical resources. If the project meets the above requirements, then a local agency's determination that the project is not exempt from CEQA will constitute an abuse of discretion under the new law.

For projects that prepared a negative declaration, addendum, EIR, or a comparable environmental document, the local agency will be found to have committed an abuse of discretion when it requires further environmental study in bad faith or without substantial evidence in the record to support a conclusion that further environmental study is necessary to identify or analyze potentially significant impacts on the physical environment.

For an applicant to make a claim that a local agency has improperly disapproved the project under AB 1633, it must provide written notice outlining its belief that the local agency failed to reach a decision on the project or abused its discretion in doing so. The applicant must allow the local agency 90 days to make a final decision about whether to approve or disapprove an exemption or environmental document under CEQA before seeking to enforce a claim of abuse of discretion in court.

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