

MARCH 31, 2010

When Environmental Review Under the California Environmental Quality Act Becomes "Groundhog Day": What's A Frustrated Developer To Do?

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Imagine you are a developer proposing a new subdivision project. Before the city council will consider your project for approval, an environmental impact report ("EIR") must be prepared under the California Environmental Quality Act ("CEQA"). The city enters into an agreement with an outside consultant to prepare the EIR and requires you, in turn, to agree to reimburse it for all costs of EIR preparation. The consultant begins preparing the EIR, but months, then years, pass, and it still has not finished the job.

Your project cannot be approved without the city's certification and consideration of a completed EIR, prepared in compliance with CEQA. And so you wait. More time passes, and still your project is not considered or approved because the EIR is not finished. Now, imagine your frustration as the costs of environmental review-for which you are solely responsible, but powerless to control-mount while your project remains in limbo. Must you stand on the sidelines? Is there anything you can do to expedite the process? Does the law provide you with any remedies for the delay? What if the EIR is never finished?

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