

LEGISLATIVE DIGEST

[Administrative Code - CEQA Appeals]

Ordinance amending the Administrative Code to allow certain projects to proceed while an appeal of the project's determination under the California Environmental Quality Act (CEQA) is pending before the Board of Supervisors, and modifying requirements for appeals to the Board of Supervisors for certain projects under CEQA.

Existing Law

Administrative Code Chapter 31.16 provides the procedures for appeal of environmental documents and determinations under the California Environmental Quality Act ("CEQA"). Among other things, Section 31.16 provides that once the Clerk has scheduled the appeal hearing for a CEQA decision, the Board may not approve a project and other City boards, commissions, and departments may not carry out or consider further the approval of the project except activities that are essential to abate hazards to the public health and safety, until the CEQA decision is affirmed by the Board.

Section 31.16 further provides who may appeal CEQA determinations: (1) any person who submitted written or oral comments to the Planning Commission or the Environmental Review Officer on a draft EIR may appeal the Planning Commission's certification of the final EIR; (2) any person who filed an appeal of a preliminary negative declaration with the Planning Commission may appeal the Planning Commission's approval of the final negative declaration; and (3) any person may appeal an exemption determination by the Planning Department or other authorized City department to the Board.

Amendments to Current Law

The proposed legislation would change these provisions of Section 31.16 in two ways. First, the legislation would allow additional kinds of decisions and work to move forward while an appeal is pending at the Board of Supervisors. These additional actions include the following: (1) actions that are undertaken by the San Francisco Municipal Transportation Agency, the Airport, Port, Public Utilities Commission, San Francisco Public Works, or the Recreation and Parks Department, where the appropriate commission or department head or their designee has determined in writing that the action is (a) a safety, health, or remedial measure necessary to protect the public, public employees, or public property or to allow the existing use of public property to continue, (b) a temporary activity that will be removed or will cease within 180 days following its commencement, or (c) a reversible action wholly implemented and operated by a City department or agency that either does not involve physical construction activities or is limited to additions that can be removed or reconditioned without damage to the site. The department head or their designee would provide their

written determination about the project's characterization as a safety, health, or remedial measure, a temporary activity, or a reversible action, to the Environmental Review Officer.

Second, the legislation would limit who may appeal specific CEQA determinations. For projects that the San Francisco Municipal Transportation Agency sponsors or approves under its exclusive authority in Charter Section 8A.102(b)(1)-(9) and which are not subject to review by the Board of Supervisors under Transportation Code Section 10.1, or for any transit service changes approved by the San Francisco Municipal Transportation Agency that do not constitute route abandonment pursuant to Charter Section 8A.108, a CEQA document or determination may be appealed to the Board of Supervisors only if 50 San Francisco residents or five Members of the Board of Supervisors subscribe to the notice of appeal.

Similarly, under the proposed legislation, for leases of property under the jurisdiction of the Port Commission for maritime uses, which are not subject to Board of Supervisors review under Charter Section 9.118, a CEQA document or determination may be appealed to the Board of Supervisors only if 50 San Francisco residents or five Members of the Board of Supervisors subscribe to the notice of appeal.

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