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**CEQA Working Group**

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**New Study: CEQA Litigation Most Often Used to Stop Infill and Public Works Projects in California**

**Sacramento** – The law firm Holland & Knight recently conducted an [analysis](#) of litigation over the past five years to determine which types of projects are most often the target of lawsuits filed under the California Environmental Quality Act (CEQA). Holland & Knight, a law firm specializing in CEQA cases for both public agencies and private entities, reviewed all 95 published court decisions from 1997 to 2012 in which a CEQA lawsuit challenged the adequacy of a project’s Environmental Impact Report at the California Court of Appeal or Supreme Court.

Among key findings of the analysis:

- CEQA litigation is aimed more often at infill than greenfield projects. Of the cases which could be characterized as involving “greenfield” or “infill” projects, 59% involved infill projects.
- More than a third (36%) of projects challenged were public agency projects like schools, hospitals, roads and universities.
- The most commonly-challenged types of projects are public infrastructure (19%).
- CEQA litigation is mostly about non-polluting projects. Fewer than 11% of these cases involve industrial projects.
- CEQA litigation shelters anonymous interests: The vast majority of cases - 73% - were filed by local organizations. Forty three percent (43%) of the local organizations are unincorporated associations, which do not need to disclose their members (or the potential non-environmental economic or other interests of their members), when filing CEQA lawsuits.

“This analysis flies in the face of the notion promoted by some that CEQA is only being used to stop polluting projects or projects outside the urban boundaries,” said Jennifer Hernandez, Partner at Holland & Knight and author of the analysis. “Clearly, CEQA is most frequently used to stop infill developments, public works and public infrastructure that are vital to grow our state responsibly and in an environmentally conscious manner.”

The Holland & Knight analysis builds off of a previous report conducted by the Thomas Law Group of the same 95 published CEQA court decisions. That [analysis](#) looked at whether or not the 95 cases won or lost in court when they were challenged. The review found that even when a project undergoes an extensive Environmental Impact Report (EIR), in which environmental impacts are evaluated and mitigated to meet all local, state and federal environmental laws, the project is rejected 50% of the time when a court challenge is brought under CEQA.

“Even when a public or private entity does everything they’re supposed to do, including completing an EIR, the odds of losing a CEQA lawsuit is essentially a coin toss,” said Gary Toebben, President & CEO of the Los Angeles Area Chamber of Commerce and a co-chair of the CEQA Working Group. “No public entity or private business can adequately plan with a 50/50 chance of being stopped by a lawsuit.

“CEQA is a great law that has served our state and our environment well,” said Carl Guardino, President & CEO of the Silicon Valley Leadership Group and co-chair of the CEQA Working Group. “But it’s clear that CEQA is now being abused by many for non-environmental reasons. And these lawsuits are targeting the very types of projects we need to grow our economy as sustainably as possible. After 40 years, it’s time to update CEQA to preserve its original intent – environmental protection and public engagement – while stamping out lawsuit abuses that harm both the economy and environment.”

**About the CEQA Working Group:**

The CEQA Working Group is a broad coalition representing business, labor, schools, hospitals, clean tech, transit, affordable housing and other organizations that are pushing for moderate reforms to CEQA that will preserve its original intent – environmental protection and public disclosure – while eliminating some of the misuses of CEQA that hurt job creation, community renewal and our environment.