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Game-Changing Legislation Moves Majestic's Stadium Plan Forward

Bill clears the way for \$800 million City of Industry NFL project, but CEQA debate continues

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While few people would argue with the economic benefit of having pro football return to Los Angeles, detractors contend that City of Industry-based Majestic Realty Co. did an end run around the state's environmental laws that could have long-term consequences.

Majestic officials lobbied for and got a bill introduced before the state Legislature that exempts the proposed 75,000-seat, \$800 million green stadium mixed-use complex in the City of Industry from any further environmental review. The bill, Assembly Bill X3 81 by Assemblywoman Isadore Hall, D-Compton, passed through both houses of the Legislature in September and was signed by Gov. Arnold Schwarzenegger on Oct. 22.

At the ceremonial signing, the governor cited the project's goal to be the first stadium to achieve the U.S. Green Building Council's Leadership in Energy and Environmental Design certification and called lawsuits attempting to block it because of its environmental impact "frivolous." Schwarzenegger also praised the project as vital to the economy.

"This legislation allows us to move forward with the construction of the nation's greenest football stadium and create thousands of jobs," Schwarzenegger said.

Although the governor exempted the stadium from the state's environmental-impact

reporting process, opposition over environmental issues continues.

Every California development project, no matter how publicly beneficial, must follow the same set of environmental rules, said Los Angeles County Supervisor Gloria Molina, who represents the 1st District, an area that includes parts of the Los Angeles neighborhood of Silver Lake and runs east to Pomona. Hospitals follow the rules, and fire stations do as well. There should not have been an exception for a football stadium, she said.

"While I never have had a quarrel with the development of the Industry football stadium, I insisted from the beginning that it be done with full environmental review, and without any public subsidies," Molina. "Consequently, I opposed the exemption they sought from the California Environmental Quality Act."

Unconventional Game Plan

Majestic Realty officials kicked off a media blitz to promote the project in April 2008 at the Staples Center - home to three professional sports teams - to generate excitement about the idea of pro football returning to the county after a 14-year absence.

But Edward P. Roski Jr., chairman and chief executive officer of Majestic, risks losing support with this most recent move to jump-start construction of the stadium in the City of Industry, a warehouse and shopping district

located 15 miles east of downtown Los Angeles, and avoid the multi-year process of environmental reviews.

According to David Pettit, director of the Santa Monica-based Southern California Air Program and a senior attorney with the Natural Resources Defense Council, the legislation gave Roski's project a "free pass" enabling him to get out of complying with two provisions of California law: one calling for environmental review of major projects and one requiring that projects in a city be consistent with its general plan, which governs how a city is to be built out.

"The argument being made is that these laws will lead to extortionate litigation by neighboring cities and that enforcement of the laws will kill jobs," Pettit said.

Environmental attorneys hear such arguments often, yet development projects are completed all the time in California, he added.

"Yes, it has been years since we had pro football in Los Angeles, and many of us would like it back," Pettit said. "But a new proposal to build a stadium in the City of Industry carries too high a price."

The proposal, which Majestic officials said would generate 18,000 jobs and \$760 million in annual revenue, nullifies a lawsuit by residents of Walnut, an adjacent city, which argued that the project was not getting sufficient environmental study.

"The CEQA process is not just a paper-pushing waste of time. It can improve projects, as we have seen repeatedly at the ports of Los Angeles and Long Beach," Pettit said.

John Semcken III, a vice president with Majestic Realty, defended the company's decision to turn to the Legislature to end a process that can drag on for years in the courts.

"We have not been exempted from the environmental-review process," Semcken said. "We did not one but two environmental-impact reports."

Majestic's original proposal in 2004 did not include a football stadium but included 1.6 million more square feet of office and industrial space, Semcken said. Majestic already had done an EIR for that project, so it asked the City of Industry if it could undergo a supplemental EIR process with the addition of the stadium and subtraction of much of the

commercial buildings that had been planned, he said.

The City of Industry granted approval to a process that excluded Majestic from specific restudies.

"We did not have to restudy if there were rare plants or Indian burial grounds because we knew there were none," Semcken said. "Other than that, we went back to ground zero and re-did another EIR document."

Since 2004, new laws have been passed with more stringent environmental conditions regarding the potential for global warming caused by buildings, Semcken said.

"We had to do a global warming analysis in the second EIR," Semcken said. "We not only did what the other EIR did but were measuring the project against the environmental standards that exist today."

Majestic continued to negotiate with Walnut until the bill was introduced before the state Legislature in the hope that it would not be necessary, Semcken said.

Majestic officials reached a settlement with Walnut in which they agreed to pay the city \$10 million to mitigate traffic concerns, Semcken said. Majestic officials also agreed to pay them \$500,000 per year from the stadium revenues based on the number of events that occur over the term of its 30-year lease with the City of Industry, he said.

According to Majestic, a citizens' group in Walnut still refused to settle.

"We do not think we created a precedent," Semcken said. "It was a concern for us too because we are Californians just like everyone else. And we do not think the CEQA law should be taken lightly. We already did an EIR on this site that was completed, certified and not challenged in November 2004 for a 4.7 million-square-foot project that we could begin tomorrow."

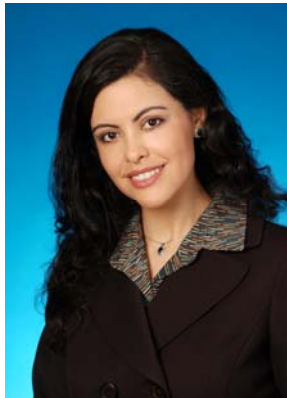
Majestic removed 1.6 million square feet of development to the plan, so it could add a stadium that only would be used 44 days of the year.

"The new project had less air-quality impacts," Semcken said. "It had less congestion impacts and only 71,000 car trips a week. It is also going to be the first LEED-certified stadium in the United States."

Possible CEQA Game Changer

ABX3 81 does not count as precedent in the courts because it is legislation and not case law, said Silvia Saucedo, head of the land-use group for Beverly Hills-based Raines Law Group.

"In terms of what it could mean for other projects, I am sure developers will be thinking it is possible to get this type of exemption," Saucedo said. "It happened once, it could happen to them."



Silvia Saucedo

The law also was crafted very carefully so that it would only apply to the stadium project, Saucedo said.

"Developers complain all the time that their projects can be challenged from here to forever," Saucedo said. "But perhaps this time when the Legislature takes a look [at possible CEQA reform] they will decide that perhaps it is not working the way it is supposed to."

The Legislature has been taking a look at reforming the entire CEQA process. If it goes forward with such legislation and restrictions concerning what grounds an opponent can bring a lawsuit under CEQA are established, those restrictions should be clearly defined, Saucedo said. That way the community groups and attorneys will know if it is worth spending the time and money to challenge a project, which could not be determined if the exemptions were ambiguous, she said.

CEQA-based lawsuits have become a sometimes unwelcome stumbling block to developers with even competitors suing using California's environmental laws, said Linda Bernhardt, managing director of the Land Use

& Regulatory Affairs Department of Loeb & Loeb.

Bernhardt thinks the stadium legislation, although narrowly written, could be a game changer for developers whose projects provide a lot of jobs.

"I can tell you if we have clients that have projects that are big job generators where we can step up and convince officials in Sacramento to introduce legislation, we will consider it," Bernhardt said. "To be fair to the elected officials at the state level, this project has a huge regional impact in terms of the economy and jobs. Politically speaking, there has been a lot of interest in a football stadium."

Bernhardt also said she was concerned about the potential impact of the legislation on the state's environmental laws.

"It is a guessing game at this point as to what could happen," Bernhardt said. "But it is a slippery slope. It makes me a little bit uncomfortable, the idea that we could start picking and choosing which projects have to undergo environmental review."

There are ways to make the environmental-review process shorter than two years. Having a good team of environmental consultants in place to do the analysis required so that documents are ready as soon as each deadline approaches in the entitlement process, Bernhardt said. It can be done in eight months, she said.

Saucedo, however, said the recession offers the climate needed to reevaluate CEQA.

"There is no question we are in a bad economic situation and development has come to a standstill," Saucedo said. "Everyone is looking to the federal government to receive some stimulus funds. This is the perfect environment to look at the ways that CEQA has not worked the way the Legislature intended it to work."