

How AB 130 Is Changing CEQA Reviews For California Housing Projects

Developers and land use attorneys say a relatively new law that exempts certain projects from environmental reviews and challenges has added certainty where there was previously mostly risk in the entitlement process.

While it isn't a cure-all for what ails multifamily development in Southern California, it is already plowing down hurdles that projects large and small would normally face in the preconstruction phase.

Signed into law [about a year ago](#), Assembly Bill 130 exempts qualifying infill residential and mixed-use housing projects from the California Environmental Quality Act and institutes a 30-day limit on how long cities can take to approve applicable projects. Although this law has made the entitlement process easier, developers say financing and construction costs still pose major hurdles, slowing construction.

A rendering of the Studio City Riverwalk project

[CEQA](#) has gained notoriety for its use by opponents of developments to delay or derail projects across the state. Over the past six years alone, undesirable residential projects have run the gamut from [homeless housing](#) to [affordable units](#) to [high-end multifamily](#). Appeals and lawsuits challenging projects on these grounds can [add years or even a decade or more](#) to project timelines.

The state legislature has, over the years, sought to remedy this aspect of environmental law by instituting waves of reforms and exemptions.

“We're getting to a point where the legislature has done, with respect to multifamily housing in the infill context, almost as much as it can do,” said [Dave Rand](#), a land use attorney and partner at Rand Paster Nelson.

AB 130 helped clear the way for an 814-unit residential and retail project in Studio City. Its size and scale are exactly the kind that might draw pushback from the community. Neighbors showed up to speak out against it at a Planning Commission meeting last week, and the project faced appeals from two local groups. But despite their concerns, the project moved through the commission

with unanimous approval.

The credit goes to AB 130, said Sheri Bonstelle, a land use attorney at Greenberg Glusker who represented the developers.

“Ultimately, the Planning Commission admitted that under [AB 130], the project didn't have any environmental impacts, and that they were essentially required to approve the project,” Bonstelle said.

About nine months elapsed between the time the developer filed an application for the Studio City project and the date of the Planning Commission hearing, a time frame previously “unheard of for a project of this scale,” Bonstelle said.

Developer Leo Pustilnikov has employed AB 130 on his nearly half dozen [builder's remedy projects](#) in Beverly Hills and will use it on another project in West Hollywood, he said. Builder's remedy projects use a loophole created by a city not having a state-approved housing plan. In the period when the housing plan is out of compliance, developers can submit projects that aren't subject to the city's usual requirements.

Cities [including Beverly Hills](#) and Santa Monica [wrestled with how to handle](#) these projects, which were lightning rods for resident pushback and litigation.

Pustilnikov had five projects in Beverly Hills that utilized the builder's remedy and was preparing for the CEQA review process for the projects. But then, AB 130 became law.

“We were gearing up to the next fight, which would have been CEQA, which could have taken many years and cost even more than the planning process,” Pustilnikov said. “This passed, and it made it much smoother and much more certain for everyone.”

Even with the CEQA hurdle removed, that doesn't pave the way entirely for multifamily projects, especially not in Los Angeles, said attorneys and developers who spoke to *Bisnow*.

The cost of construction remains the highest deterrent to development, Bonstelle said, citing several clients who have entitled projects they were eager to start building only to have to pump the brakes because their projects won't pencil.

The price of construction materials is expected to rise 5.4% to 6.8% this year as a result of federal tariffs, [Bisnow previously reported](#). That comes on top of

year-over-year price increases. In the last five years, the producer price index for construction increased by about 40% overall.

Bonstelle said she is aware of entitled projects that are stuck in limbo because high construction costs make them infeasible.

“The developers can't build it, solely due to the construction cost, and they can't sell it, because nobody else can build it, solely due to the construction cost, so all these entitled lands are sitting empty,” Bonstelle said.

It is a reminder that while removing uncertainty around approvals is critical to facilitating housing construction, it is [far from the only piece](#) of the puzzle.

“The problem is interest rates and construction costs,” Pustilnikov said. “If interest rates and construction costs were where they were in 2019, you would see cranes on every block.”

[Measure ULA](#), the real estate transfer tax on transactions above \$5.3M, was another issue that Pustilnikov and others cited as a hurdle to development.

“The fundamental market conditions that are still plaguing multifamily development can't be cured by AB 130 or any other land use regulatory reform,” Rand said.

While it is unlikely that AB 130 is pushing property owners to consider development where they hadn't previously imagined it, Bonstelle said she thinks the law will make it possible for projects that would have been abandoned during the entitlement process to be built.

With the threat and cost of a full environmental review for qualified projects removed, so goes the pressure to finance not only that review but also the litigation that was likely to follow.

“If they do file a lawsuit, [AB 130] will make it much easier for us to defend it, and it brings the risk profile way down,” Bonstelle said.

Lower risk profile and less time means a savings of time and money, “and time and money is what kills projects,” she said.