

**S279242**

**IN THE  
SUPREME COURT OF CALIFORNIA**

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**MAKE UC A GOOD NEIGHBOR et al.,**  
*Petitioners and Appellants,*

*v.*

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA et al.,**  
*Defendants and Respondents,*

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**RESOURCES FOR COMMUNITY DEVELOPMENT et al.,**  
*Real Party in Interest.*

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AFTER A PUBLISHED OPINION OF THE COURT OF APPEAL  
FIRST APPELLATE DISTRICT, DIVISION FIVE,  
CASE No. A165451

APPEAL FROM JULY 29, 2022, ORDER AND AUGUST 2, 2022 ORDER AND JUDGMENT OF  
THE ALAMEDA SUPERIOR COURT; HON. FRANK ROESCH, DEPT. 17, CASE No.  
RG21110142 (CONSOLIDATED FOR PURPOSES OF TRIAL ONLY WITH CASE NOS.  
RG21109910, RG21110157, 21CV000995 AND 21CV001919)

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**SECOND MOTION FOR JUDICIAL NOTICE;  
DECLARATION OF JEREMY B. ROSEN  
EXHIBITS; [PROPOSED] ORDER  
[FILED CONCURRENTLY WITH OPENING SUPPLEMENTAL BRIEF  
REGARDING NEW AUTHORITY]**

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# MOTION FOR JUDICIAL NOTICE

## INTRODUCTION

Pursuant to Evidence Code sections 452, 453, and 459, and California Rules of Court, rule 8.252(a), The Regents of the University of California request that this Court take judicial notice of the legislative history of Assembly Bill No. 1307 (2023–2024 Reg. Sess.) (AB 1307) as signed into law by the Governor on September 7, 2023. The Court has directed the parties to address the impact of AB 1307 on this appeal. The legislative history will assist this Court in its decisionmaking as it explains how CEQA applies to student noise and to the requirement of universities to consider alternatives to student housing. Given the recent passage of the legislation, this is the first opportunity to bring this history to the Court’s attention.

## LEGAL ARGUMENT

**I. Reviewing courts have authority to take judicial notice of a statute’s legislative history when it is relevant to construing the statute.**

This Court may take judicial notice of legislative acts, court records, and “[f]acts and propositions that are not reasonably subject to dispute.” (Evid. Code, §§ 452, subds. (c), (d), & (h), 459; see *Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 279, fn. 9 (*Soukup*); *Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 519, fn. 5; *Arroyo v. Plosay* (2014) 225 Cal.App.4th 279, 284, fn. 4.) Under these provisions, this Court may take judicial notice of a statute’s legislative history, including “various versions of the legislation and committee reports.” (*Soukup*, at p. 279, fn. 9.)

**II. This Court should take judicial notice of the legislative history of Assembly Bill No. 1307.**

The Court of Appeal’s opinion found that UC Berkeley’s EIR did not adequately consider student noise or examine feasible alternatives to the project. (*Make UC A Good Neighbor v. Regents of University of California* (2023) 88 Cal.App.5th 656, 678–683, 685–690.) AB 1307 addresses both of these points, and the Court would benefit from a more complete understanding of the Legislature’s purpose in enacting this amendment to CEQA.

Indeed, the legislative history can shed light on the proper interpretation of CEQA as amended. (See *Soukup, supra*, 39 Cal.4th at p. 279, fn. 9 [taking notice of “various versions of the legislation and committee reports, all of which are indisputably proper subjects of judicial notice”]; *Hale v. Southern California IPA Medical Group, Inc.* (2001) 86 Cal.App.4th 919, 927 [“In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute”].)

## CONCLUSION

Because legislative history sheds light on the critical statute at issue in this case, this Court should take judicial notice of the legislative history of AB 1307 attached hereto.

September 20, 2023

**HORVITZ & LEVY LLP**  
BETH J. JAY  
MITCHELL C. TILNER  
H. THOMAS WATSON  
JEREMY B. ROSEN

By: \_\_\_\_\_



Jeremy B. Rosen

Attorneys for **THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA**

## DECLARATION OF JEREMY B. ROSEN

I, Jeremy B. Rosen, declare as follows:

1. I am an attorney duly admitted to practice law in the State of California and an attorney with Horvitz & Levy LLP, counsel of record for defendant and respondent The Regents of the University of California.

2. I downloaded all of the legislative reports for Assembly Bill No. 1307 (2023–2024 Reg. Sess.) (AB 1307) from the California Legislature’s Legislative Information Website, [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov).

3. Exhibit 1 is a true and correct copy of the fourth draft of AB 1307, which was released on June 26, 2023.

4. Exhibit 2 is a true and correct copy of an Assembly analysis of AB 1307, as amended March 16, 2023.

5. Exhibit 3 is a true and correct copy of an April 10, 2023 analysis of AB 1307 by the Assembly Committee on Natural Resources.

6. Exhibit 4 is a true and correct copy of an April 26, 2023 analysis of AB 1307 for the Assembly Committee on Appropriations.

7. Exhibit 5 is a true and correct copy of an Assembly analysis of AB 1307, as amended May 18, 2023.

8. Exhibit 6 is a true and correct copy of the Senate Committee on Environmental Quality’s analysis of AB 1307, as amended May 18, 2023.

9. Exhibit 7 is a true and correct copy of the Assembly’s Concurrence in Senate Amendments to AB 1307, as amended June 26, 2023.




10. Exhibit 8 is a true and correct copy of the Senate Committee on Housing's analysis of AB 1307, as amended June 26, 2023.

11. Exhibit 9 is a true and correct copy of the Senate Rules Committee's analysis of AB 1307, as amended June 26, 2023.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed September 20, 2023, at San Francisco, California.

  
\_\_\_\_\_  
Jeremy B. Rosen

# Exhibit 1

AMENDED IN SENATE JUNE 26, 2023

AMENDED IN ASSEMBLY MAY 18, 2023

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1307**

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**Introduced by Assembly Members Wicks, Hoover, and Luz Rivas  
(Principal coauthor: Assembly Member Ting)**

February 16, 2023

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An act to add ~~Section~~ *Sections 21085 and 21085.2* to the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1307, as amended, Wicks. California Environmental Quality Act: noise impact: residential projects.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (*EIR*) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would specify that *the effects of noise generated by project occupants and their guests on human beings* is not a significant effect on the environment for residential projects for purposes of CEQA.

*This bill would specify that institutions of public higher education, in an EIR for a residential or mixed-use housing project, are not required to consider alternatives to the location of the proposed project if certain requirements are met.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21085 is added to the Public Resources  
2 Code, to read:

3 21085. For purposes of this division, for residential projects,  
4 *the effects of noise generated by project occupants and their guests*  
5 *on human beings* is not a significant effect on the environment.

6 SEC. 2. Section 21085.2 is added to the Public Resources Code,  
7 to read:

8 21085.2. (a) For purposes of this section, the following  
9 definitions apply:

10 (1) “Long-range development plan” means a physical  
11 development and land use plan to meet the academic and  
12 institutional objectives for a particular campus or medical center  
13 of public higher education.

14 (2) “Public higher education” means the institutions described  
15 in subdivision (a) of Section 66010 of the Education Code.

16 (3) “Residential or mixed-use housing project” means a project  
17 consisting of residential uses only or a mix of residential and  
18 nonresidential uses, with at least two-thirds of the square footage  
19 of the development designated for residential uses.

20 (4) “Substantially surrounded” means at least 75 percent of  
21 the perimeter of the project site adjoins, or is separated only by  
22 an improved public right-of-way from, parcels that are developed  
23 with qualified urban uses.

24 (b) Notwithstanding any other law or regulation, institutions  
25 of public higher education shall not be required, in an  
26 environmental impact report prepared for a residential or

1 *mixed-use housing project, to consider alternatives to the location*  
2 *of the residential or mixed-use housing project if both of the*  
3 *following requirements are met:*

4 *(1) The residential or mixed-use housing project is located on*  
5 *a site that is no more than five acres and is substantially*  
6 *surrounded by qualified urban uses.*

7 *(2) The residential or mixed-use housing project has already*  
8 *been evaluated in the environmental impact report for the most*  
9 *recent long-range development plan for the applicable campus.*

10 ~~SEC. 2.~~

11 *SEC. 3.* This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety within  
13 the meaning of Article IV of the California Constitution and shall  
14 go into immediate effect. The facts constituting the necessity are:

15 Currently in California there is a substantial housing crisis. To  
16 ensure housing projects are not subject to further uncertainty, delay,  
17 or risk of lawsuit, it is necessary for this act to take effect  
18 immediately.

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# Exhibit 2

ASSEMBLY THIRD READING  
AB 1307 (Wicks and Luz Rivas)  
As Amended March 16, 2023  
Majority vote

## SUMMARY

For purposes of the California Environmental Quality Act (CEQA), provides that noise generated by the unamplified voices of residents is not a significant effect on the environment for residential projects.

### Major Provisions

Provides that noise generated by the unamplified voices of residents is not a significant effect on the environment for residential projects.

## COMMENTS

CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Regulation of noise pollution dates back to ancient Greece and Rome. Noise is perhaps the original environmental impact. Noise analysis has always been a part of CEQA review. Noise is included in the original CEQA definition of "environment," dating to 1972. Noise is among the 18 environmental factors that must be evaluated by lead agencies in an initial study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance, and noise generated by residents occupying the project usually would not be considered a significant effect.

On February 24, 2023, the First District Court of Appeal issued an opinion in *Make UC a Good Neighbor v. Regents of University of California*. The Court rejected challenges to the CEQA review of UC Berkeley's long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People's Park. Even though substantial evidence of social noise impacts was presented during the project's CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative... The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset... We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

### **According to the Author**

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider "people as pollution."

### **Arguments in Support**

According to the American Planning Association, California Chapter:

To suggest that any minor increase in noise from human voices should be analyzed in CEQA could substantially impact nearly all urban development moving forward. CEQA noise analyses are intended to examine major noise-generating activities from a proposed project, such as noise from industrial or transportation sources. General urban noise from, for example, students or other people speaking loudly or dogs barking that occupy a new housing project, are generally considered minor nuisances that are incidental to living in an urban environment and historically have not been and should not be required to be analyzed under CEQA. APA California is grateful to see a straightforward solution to this issue, which comes at a time when the state is already facing a severe housing crisis, including an increasing shortage for student housing.

### **Arguments in Opposition**

None received.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, negligible state costs.

## **VOTES**

### **ASM NATURAL RESOURCES: 11-0-0**

**YES:** Luz Rivas, Flora, Addis, Friedman, Hoover, Mathis, Muratsuchi, Pellerin, Ward, Wood, Zbur

### **ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson



**UPDATED**

VERSION: March 16, 2023

CONSULTANT: Lawrence Lingbloom / NAT. RES. / (916) 319-2092

FN: 0000321

# Exhibit 3

Date of Hearing: April 10, 2023

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Luz Rivas, Chair

AB 1307 (Wicks) – As Amended March 16, 2023

**SUBJECT:** California Environmental Quality Act: noise impact: residential projects

**SUMMARY:** For purposes of the California Environmental Quality Act (CEQA), provides that noise generated by the unamplified voices of residents is not a significant effect on the environment for residential projects.

**EXISTING LAW:**

- 1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. (Public Resources Code (PRC) 21000, et seq.)
- 2) Defines "environment" as the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, *noise*, or objects of historic or aesthetic significance. (PRC 21060.5)
- 3) Defines "significant effect on the environment" as a substantial, or potentially substantial, adverse change in the environment. (PRC 21068)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Regulation of noise pollution dates back to ancient Greece and Rome. Noise is perhaps the original environmental impact. Noise analysis has always been a part of CEQA review. Noise is included in the original CEQA definition of "environment," dating to 1972. Noise is among the 18 environmental factors that must be evaluated by lead agencies in an initial

study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance, and noise generated by residents occupying the project usually would not be considered a significant effect.

- 2) **The People’s Park case.** On February 24, 2023, the First District Court of Appeal issued an opinion in *Make UC a Good Neighbor v. Regents of University of California*. The Court rejected challenges to the CEQA review of UC Berkeley’s long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People’s Park. Even though substantial evidence of social noise impacts was presented during the project’s CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative...The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset...We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

- 3) **Author’s statement:**

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider “people as pollution.”

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

AMG & Associates  
 California Apartment Association  
 California Association of Realtors  
 California Building Industry Association  
 California Housing Consortium  
 California Housing Partnership Corporation  
 CRP Affordable Housing and Community Development  
 East Bay YIMBY  
 Grow the Richmond  
 Housing Action Coalition  
 Housing California

How to ADU  
Linc Housing  
MidPen Housing Corporation  
Mountain View YIMBY  
Napa-Solano for Everyone  
Non-Profit Housing Association of Northern California  
Northern Neighbors SF  
Peninsula for Everyone  
People for Housing Orange County  
Progress Noe Valley  
Resources for Community Development  
San Francisco Bay Area Planning and Urban Research Association (SPUR)  
San Francisco YIMBY  
San Luis Obispo YIMBY  
Santa Cruz YIMBY  
Santa Rosa YIMBY  
Satellite Affordable Housing Associates  
South Bay YIMBY  
Southside Forward  
The Pacific Companies  
Urban Environmentalists  
Ventura County YIMBY  
YIMBY Action

**Opposition**

None on file

**Analysis Prepared by:** Lawrence Lingbloom / NAT. RES. /

Exhibit (

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1307 (Wicks) – As Amended March 16, 2023

Policy Committee: Natural Resources Vote: 11 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill provides that noise generated by the unamplified voices of residents is not a significant effect on the environment for residential projects, for purposes of the California Environmental Quality Act (CEQA).

**FISCAL EFFECT:**

Negligible state costs.

**COMMENTS:**

1) **Purpose.** According to the author:

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider “people as pollution.”

2) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that project may have a significant effect, the lead agency must prepare an environmental impact report (EIR).

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Noise analysis has always been a part of CEQA review. Noise is included in the original CEQA definition of “environment,” dating back to 1972, and is among the 18 environmental factors that must be evaluated by lead agencies in an initial study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance, and noise generated by residents occupying the project usually would not be considered a significant effect.

*The People’s Park case.* On February 24, 2023, the First District Court of Appeal issued an opinion in *Make UC a Good Neighbor v. Regents of University of California*. The Court rejected challenges to the CEQA review of UC Berkeley’s long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People’s Park. The court found that even though substantial evidence of social noise impacts was presented during the project’s CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative...The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset...We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

Along with a large coalition of other supporters, California YIMBY writes:

The outcome of this court case will substantially delay the delivery of housing and further exacerbate our already substantial housing crisis. More perniciously, this ruling implies that certain groups of people be considered as creating a significant environmental impact merely because of the perceived risk of their behavior. Therefore, the ruling invites subsequent litigants in CEQA cases to sue residential projects that would house “those people.” This will exacerbate the racist and classist nature of housing policy and undermine recent state efforts to confront that past. AB 1307 is a straightforward solution that will protect the community and limit CEQA litigation abuse.

**Analysis Prepared by:** Nikita Koraddi / APPR. / (916) 319-2081



# Exhibit 5

ASSEMBLY THIRD READING  
AB 1307 (Wicks and Luz Rivas)  
As Amended May 18, 2023  
Majority vote. Urgency

## SUMMARY

For purposes of the California Environmental Quality Act (CEQA), provides that noise generated by occupants is not a significant effect on the environment for residential projects.

### Major Provisions

Provides that noise generated by occupants is not a significant effect on the environment for residential projects.

## COMMENTS

CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an environmental impact report (EIR).

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Regulation of noise pollution dates back to ancient Greece and Rome. Noise is perhaps the original environmental impact. Noise analysis has always been a part of CEQA review. Noise is included in the original CEQA definition of "environment," dating to 1972. Noise is among the 18 environmental factors that must be evaluated by lead agencies in an initial study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance, and noise generated by residents occupying the project usually would not be considered a significant effect.

On February 24, 2023, the First District Court of Appeal issued an opinion in *Make UC a Good Neighbor v. Regents of University of California*. The Court rejected challenges to the CEQA review of UC Berkeley's long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People's Park. Even though substantial evidence of social noise impacts was presented during the project's CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative... The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset... We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

### **According to the Author**

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider "people as pollution."

### **Arguments in Support**

According to the American Planning Association, California Chapter:

To suggest that any minor increase in noise from human voices should be analyzed in CEQA could substantially impact nearly all urban development moving forward. CEQA noise analyses are intended to examine major noise-generating activities from a proposed project, such as noise from industrial or transportation sources. General urban noise from, for example, students or other people speaking loudly or dogs barking that occupy a new housing project, are generally considered minor nuisances that are incidental to living in an urban environment and historically have not been and should not be required to be analyzed under CEQA. APA California is grateful to see a straightforward solution to this issue, which comes at a time when the state is already facing a severe housing crisis, including an increasing shortage for student housing.

### **Arguments in Opposition**

None received.

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, negligible state costs.

## **VOTES**

### **ASM NATURAL RESOURCES: 11-0-0**

**YES:** Luz Rivas, Flora, Addis, Friedman, Hoover, Mathis, Muratsuchi, Pellerin, Ward, Wood, Zbur

### **ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson

**UPDATED**

VERSION: May 18, 2023

CONSULTANT: Lawrence Lingbloom / NAT. RES. / (916) 319-2092

FN: 0000401

# Exhibit 6

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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Allen, Chair**

**2023 - 2024 Regular**

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**Bill No:** AB 1307  
**Author:** Wicks, et al.  
**Version:** 5/18/2023  
**Urgency:** Yes  
**Consultant:** Brynn Cook

**Hearing Date:** 6/21/2023  
**Fiscal:** Yes

**SUBJECT:** California Environmental Quality Act: noise impact: residential projects

**DIGEST:** This bill specifies that noise from residents does not constitute a significant environmental effect under the California Environmental Quality Act (CEQA).

**ANALYSIS:**

Existing law:

- 1) Under CEQA, a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project could have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment. (Public Resources Code (PRC) §§21000 et seq.)
- 2) Identifies noise as one of eighteen environmental factors to be consider under CEQA review. (PRC 21060.5)
- 3) Defines “significant effect on the environment” as a substantial, or potentially substantial adverse change in the environment. (PRC 21068)

This bill:

- 1) Specifies that noises from occupants in residential projects does not count as a significant effect under CEQA.

## Background

- 1) *The A, B, C's of CEQA*. CEQA is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment.

CEQA is a self-executing statute that is enforced by civil lawsuits that can challenge any project's environmental review. Public agencies, as well as private individuals and organizations, can file lawsuits under CEQA.

A lead agency reviewing a project under CEQA takes three progressive steps of environmental review. First, a lead agency looks the footprint of the project to determine if it can be exempted from CEQA. If it is not exempt, the lead agency then conducts an initial study, which examines 18 different environmental factors to determine if the project might have significant effects on the environment. If there are no significant environmental impacts or those impacts can be fully mitigated, the lead agency prepares an ND or MND. If there are environmental impacts that cannot be mitigated, the lead agency proceeds with the most extensive level of environmental review --a full EIR.

- 2) *Noise Pollution in CEQA*. Noise is one of the 18 environmental factors that lead agencies must consider in an initial study. Noise effects can include both the noise associated with construction and day-to-day operation of the project. For residential projects, analyses often consider how the project might conflict with local noise ordinances, but noises made by residents themselves are not considered as an effect for CEQA review.
- 3) *People's Park Case*. In a bid to provide more housing for its students, UC Berkeley proposed to build a student housing complex at the historic People's Park, situated close to campus. UC certified the EIR for the People's Park project in July and September 2021. In October 2021, *Make UC A Good Neighbor* filed a lawsuit to halt the project. In August 2022, the trial court sided with UC, but that decision was stayed *pending Good Neighbor's* appeal. In February 2023, the First Appellate Court of California upheld the appeal, finding that the EIR failed in two regards: considering alternative sites, and considering the noise impacts of residents in the proposed project. The court upheld that failing to consider the potential noise impacts from loud student parties in neighborhoods near campus in the

was “a longstanding problem that the EIR improperly dismissed as speculative.”

Under this ruling, the Regents would need to return to the EIR and consider the potential noise impacts of residents on the surrounding community and provide feasible mitigation measures if it finds that there are significant noise effects from the project. While this ruling would not require the Regents to address any noise from occupants—under CEQA, a project does not have to mitigate all environmental effects to move forward—it does require the Regents to go back to the EIR analysis. While the time it takes to conduct an EIR is highly variable, it is often lengthy. For example, in Los Angeles, the median amount of time for an EIR to be finalized is 23 months.

### Comments

- 1) *Purpose of Bill.* According to the author, “AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider ‘people as pollution.’”
- 2) *Implications of social noise.* The *Make UC A Good Neighbor et al. v. Regents of the University of California* establishes a new precedent that noise from residents in projects should be an environmental factor considered under CEQA. Since all residences have residents and all residents make some amount of noise in their day-to-day lives, the result may be that all residential housing projects would need to conduct an EIR and specifically examine the impacts of the voices and living noises of residents in the project and surrounding areas. This could significantly slow down the CEQA process for residential buildings.

Potentially more alarming, the ruling specifically notes that noise impacts should be considered because *students* are noisy and more likely to party than other people. Assuming the behavior of residents, and the resultant impact of their behaviors on the environment, based on their identity sets a precedent to introduce identity-based discrimination into CEQA review.

- 3) *Turn Down for What?* CEQA does not need to be expanded to include noises from residents (or residents suspected of being inherently noisy), as there are already mechanisms in place to get noisy neighbors to quiet down.



Berkeley County updated and strengthened their noise ordinance in 2021 to address various noise complaints. The noise ordinance defines noise as “any sound that is either loud, boisterous, unpleasant, unreasonable or that causes a disturbance of the public peace.” Violating the ordinance is penalized with a \$100-\$500 fine and a possible jail sentence up to 30 days. CEQA does not need to police noisy neighbors because the police already do so.

**DOUBLE REFERRAL:**

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Housing Committee.

**Related/Prior Legislation**

SB 118 (Committee on Budget and Fiscal Review, Chapter 10, Statutes of 2022) specified that student enrollment, or changes in enrollment, by itself does not constitute a project under CEQA and applies this law retroactively.

**SOURCE:** Author

**SUPPORT:**

American Planning Association, California Chapter  
 California Association of Realtors  
 California Housing Consortium  
 California Housing Partnership Corporation  
 California State Association of Counties  
 California Yimby  
 East Bay Yimby  
 Eden Housing  
 Grow the Richmond  
 Housing California  
 How to Adu  
 Mountain View Yimby  
 Napa-solano for Everyone  
 Northern Neighbors  
 Peninsula for Everyone  
 People for Housing Orange County  
 Progress Noe Valley  
 Resources for Community Development  
 San Francisco Yimby  
 San Jose; City of  
 Santa Cruz Yimby  
 Santa Rosa Yimby

Slo County Yimby  
South Bay Yimby  
Southside Forward  
Supportive Housing Alliance  
The Pacific Companies  
Urban Environmentalists  
Ventura County Yimby  
Yimby Action

**OPPOSITION:**

None received

**-- END --**

# Exhibit 7

## CONCURRENCE IN SENATE AMENDMENTS

AB 1307 (Wicks, et al.)

As Amended June 26, 2023

2/3 vote. Urgency

**SUMMARY**

For purposes of residential projects reviewed under the California Environmental Quality Act (CEQA), provides that the effects of noise generated by occupants and guests on human beings is not a significant effect on the environment. Further provides that public universities are not required, in an environmental impact report (EIR) prepared for a residential or mixed-use housing project, to consider alternatives to the location of the project if specified requirements are met.

**Senate Amendments**

Add a provision providing that public universities are not required, in an EIR prepared for a residential or mixed-use housing project, to consider alternatives to the location of the project if both of the following requirements are met:

- 1) The project is located on a site that is no more than five acres and is substantially surrounded by qualified urban uses.
- 2) The project has already been evaluated in the EIR for the most recent long-range development plan for the applicable campus.

**COMMENTS**

CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

Regulation of noise pollution dates back to ancient Greece and Rome. Noise is perhaps the original environmental impact. Noise analysis has always been a part of CEQA review. Noise is included in the original CEQA definition of "environment," dating to 1972. Noise is among the 18 environmental factors that must be evaluated by lead agencies in an initial study to determine the appropriate level of CEQA review. For many projects, such as roads, manufacturing, or a large event venue, the noise analysis may include noise from both construction and operation of the project. For residential projects, the noise analysis may consider whether the project generates noise in excess of standards established in the local general plan or noise ordinance,

and noise generated by residents occupying the project usually would not be considered a significant effect.

On February 24, 2023, the First District Court of Appeal issued an opinion in *Make UC a Good Neighbor v. Regents of University of California*. The Court rejected challenges to the CEQA review of UC Berkeley's long range development plan, but directed UC to consider alternative locations, and to assess potential noise impacts from student parties, for a student housing project proposed at the site of People's Park. Even though substantial evidence of social noise impacts was presented during the project's CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. According to the opinion:

(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative... The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset... We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated.

The case is currently pending review by the California Supreme Court.

### **According to the Author**

AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider "people as pollution."

### **Arguments in Support**

According to the University of California (UC), AB 1307 clarifies that social noise is not a significant environmental impact. It is a meaningful clarification to the law, as social noise complaints are properly handled through municipal noise ordinances, not CEQA. AB 1307 also clarifies that when a programmatic EIR considers sites appropriate for housing, project level EIRs, in limited and specified circumstances, are not required to reconsider the same land use policies and priorities (i.e., the alternatives analysis) in the context of the project-specific EIR. Without these changes, UC Berkeley's student housing program would be delayed indefinitely. The University supports AB 1307 as a way to ensure CEQA, when followed properly, does not become a tool against increasing housing density.

### **Arguments in Opposition**

According to the People's Park Historic District Advocacy Group, (t)his legislation effectively rewards the University of California, Berkeley (UCB) for its blatant failure to comply at the most basic level with the heart of CEQA: the evaluation of alternatives for a project. UCB has identified and studied 13 locations for student housing that would avoid the negative impacts of its proposed project on People's Park, several of which would provide more units than are proposed for the park site. There is no need for this legislation since there is a path forward for UCB to build the much-needed student and supportive housing on a site other than People's Park, thus preserving a nationally recognized historical resource and a valuable public open space.

**FISCAL COMMENTS**

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**VOTES:****ASM NATURAL RESOURCES: 11-0-0**

**YES:** Luz Rivas, Flora, Addis, Friedman, Hoover, Mathis, Muratsuchi, Pellerin, Ward, Wood, Zbur

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson

**ASSEMBLY FLOOR: 77-0-3**

**YES:** Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**ABS, ABST OR NV:** Chen, Lackey, Quirk-Silva

**SENATE FLOOR: 38-0-2**

**YES:** Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Glazer, Gonzalez, Grove, Hurtado, Jones, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

**ABS, ABST OR NV:** Eggman, Laird

**UPDATED**

VERSION: June 26, 2023

CONSULTANT: Lawrence Lingbloom / NAT. RES. / (916) 319-2092

FN: 0001278

# Exhibit 8

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**SENATE COMMITTEE ON HOUSING**  
**Senator Scott Wiener, Chair**  
**2023 - 2024 Regular**

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**Bill No:** AB 1307 **Hearing Date:** 7/10/2023  
**Author:** Wicks  
**Version:** 6/26/2023  
**Urgency:** Yes **Fiscal:** Yes  
**Consultant:** Alison Hughes

**SUBJECT:** California Environmental Quality Act: noise impact: residential projects

**DIGEST:** This urgency bill provides that, for purposes of the California Environmental Quality Act (CEQA), the effects of noise generated by project occupants and their guests on human beings is not a significant effect on environment, as specified.

**ANALYSIS:**

*Existing law:*

- 1) Under CEQA, a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project could have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment.
- 2) Identifies noise as one of eighteen environmental factors to be consider under CEQA review.
- 3) Defines “significant effect on the environment” as a substantial, or potentially substantial adverse change in the environment.
- 4) Defines a “long-range development plan” (LRDP) as a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education.



- 5) Defines “residential or mixed-use housing project” as a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.
- 6) Defines “tiered” or “tiering” as the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program, or ordinance followed by narrower or site-specific environmental impact reports, which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.
- 7) CEQA requires lead agencies with the principal responsibility for carrying out or approving a project to prepare a negative declaration (ND), mitigated negative declaration (MND), or environmental impact report (EIR) for the project, unless the project is exempt from CEQA. If a project may have a significant effect on the environment, the lead agency must prepare a draft EIR.
- 8) States selecting a location for a public higher education campus and the approval of an LRDP are subject to CEQA and require an EIR to be prepared.
- 9) States approval of a public higher education campus is subject to CEQA and can be address via a tiered environmental analysis based upon an LRDP’s EIR.
- 10) States that using an LRDP EIR complies with CEQA’s requirements as long as the academic and campus population plans don’t take effect until after the environmental effects have been analyzed in an LRDP’s EIR or tiered analysis based upon that EIR. Enrollment or changes in enrollment, by themselves, do not constitute a project.
- 11) Defines “public higher education” as (1) the California Community Colleges (CCC), (2) the California State University (CSU), and each campus, branch, and function thereof, and (3) each campus, branch, and function of the University of California (UC).

**This urgency bill:**

- 1) Specifies that noises from occupants in residential projects does not count as a significant effect under CEQA.

- 2) Provides that any institution of higher education shall not be required, in an EIR for a residential or mixed use housing project, to consider alternatives to the location of the housing project if both of the following requirements are met:
  - a) The housing project is located on a site that is no more than five acres and is substantially surrounded by qualified infill uses.
  - b) The housing project has already been evaluated in the EIR for the most recent LRDP for the applicable campus.

### COMMENTS:

- 1) *Author's statement.* "AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider 'people as pollution.'"
- 2) *CEQA.* CEQA was enacted by the Legislature and signed into law by Governor Ronald Reagan in 1970. While it has evolved into a very complex Act over the past 53 years, at its core the basic principles of CEQA are relatively simple.

It is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment.

CEQA is self-executing statute that is enforced by civil lawsuits that can challenge any project's environmental review. Public agencies, as well as private individuals and organizations, can file lawsuits under CEQA.

- 3) *CEQA Speak.* Like many areas of California law, CEQA has its own terminology. Generally speaking, an EIR is the document that reflects how a particular project will affect the environment, both in its construction and operationally for years to come, but EIRs come in multiple flavors. A project EIR, which is used most often, looks in depth at the environmental impacts of all phases of a specific development project (*e.g.*, an office building or an apartment complex, etc.). A program or programmatic EIR is a larger document that looks at a project, which contains a number of sub-projects. For example, it may include some office buildings, apartment complexes, and retail shops – all of which may or may not be built at the same time – and it is not as in-depth as a project EIR, though it is broader.

A lead agency reviewing a project under CEQA takes three progressive steps of environmental review. First, a lead agency looks the footprint of the project to determine if it can be exempted from CEQA. If it is not exempt, the lead agency then conducts an initial study, which examines 18 different environmental factors to determine if the project might have significant effects on the environment. If there are no significant environmental impacts or those impacts can be fully mitigated, the lead agency prepares an ND or MND. If there are environmental impacts that cannot be mitigated, the lead agency proceeds with the most extensive level of environmental review --a full EIR. Noise is one of the 18 environmental factors that lead agencies must consider in an initial study. Noise effects can include both the noise associated with construction and day-to-day operation of the project. For residential projects, analyses often consider how the project might conflict with local noise ordinances, but noises made by residents themselves are not considered as an effect for CEQA review.

A tiered EIR is one that is “tiered” off the programmatic EIR and focuses on the specific project within the larger project, operating much like a project EIR. For example, if the programmatic EIR was done for a housing project, a tiered EIR might be required when it comes time to build the retail portion of the larger project. The tiered EIR would look more in-depth at the proposal and would consider changes that may have taken place since the larger programmatic EIR was adopted. According to specified findings and declarations, tiering of environmental impact reports are intended to “promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects, which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects, which may be mitigated or avoided in connection with the decision on each later project.”

3) *UC Berkeley’s LRDP and student housing shortage.* Each UC is required to adopt an LRDP, which is a high level planning document that helps guide decision on land and infrastructure developments. An LRDP is used by the UC, CSU, and CCC and functions as a combination programmatic EIR and general land use plan. UC Berkeley provides housing for only 23% of its students, which is by far the lowest of any UC. Enrollments have outpaced student housing development. The prior LRDP, adopted in 2005, called for the construction of 2,600 beds through 2021, which was 10,000 beds short of the projected enrollment increase. The university only produced 1,119 of those

bed, while simultaneously increasing enrollment beyond what was planned for in the LRDP. The most recent LRDP, adopted in 2021, proposes to build 11,731 beds.

- 4) *Make a UC a Good Neighbor v. Regents of UC*. At issue in this case is whether Regents of UC adequately considered alternative locations for a student housing and supportive housing project located on People's Park, a UC owned property, in the City of Berkeley, and whether UC adequately assessed potential noise impacts from students. In that case, UC Berkeley analyzed the LRDP and the People's Park project together in a single EIR. Even though substantial evidence of social noise impacts was presented during the project's CEQA review, UC decided to not analyze potential noise from future residents and determine if the impacts were significant or not. Following the certification of the EIR, "Make a UC a Good Neighbor" and others challenged the approvals for various violations under CEQA. These arguments were rejected by the Alameda County Superior Court. On appeal, however, the First District Court of Appeals held that defendants failed to "analyze any alternative locations." According to the defendants, alternative sites were already analyzed in the programmatic EIR (*i.e.* UC Berkeley's LRDP EIR), including the People's Park development. Additionally, the Court directed UC to assess potential noise impacts from student parties. According to the opinion:

"(UC) failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus, a longstanding problem that the EIR improperly dismissed as speculative... The Regents must analyze the potential noise impacts relating to loud student parties. Their decision to skip the issue, based on the unfounded notion that the impacts are speculative, was a prejudicial abuse of discretion and requires them now to do the analysis that they should have done at the outset... We express no opinion on the outcome of a noise analysis. The Regents must determine whether the potential noise impacts are in fact significant, and, if so, whether mitigation is appropriate; ultimately, CEQA provides discretion to proceed with a project even if some impacts cannot be mitigated."

This ruling establishes a new precedent that noise from residents in projects should be an environmental factor considered under CEQA. Since all residences have residents and all residents make some amount of noise in their day-to-day lives, the result may be that all residential housing projects would need to conduct an EIR and specifically examine the impacts of the voices and living noises of residents in the project and surrounding areas. This could significantly slow down the CEQA process for residential buildings.

This bill states that for residential projects, the effects of noise generated by the occupants and the guests cannot be considered a significant effect on the environment under CEQA. By making this change, this bill would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises.

This bill also includes a narrow exemption from CEQA's required alternative sites analysis for university-built residential projects that were already evaluated in the university's long-range development plan. This change will enable UC Berkeley to move forward expeditiously with its People's Park project.

5) *Here, there, and everywhere.* This bill was heard in the Environmental Quality Committee on June 21 and passed on a 7-0 vote.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: No

**POSITIONS:** (Communicated to the committee before noon on Wednesday, July 5, 2023.)

**SUPPORT:**

California Housing Consortium (Co-Sponsor)  
 California Housing Partnership Corporation (Co-Sponsor)  
 Housing California (Co-Sponsor)  
 California Lieutenant Governor Eleni Kounalakis  
 American Planning Association, California Chapter  
 Amg & Associates, LLC  
 Association of Environmental Professionals  
 California Apartment Association  
 California Association of Realtors  
 California Building Industry Association  
 California State Association of Counties  
 California YIMBY  
 CRP Affordable Housing and Community Development  
 East Bay for Everyone  
 East Bay YIMBY  
 Eden Housing  
 Greenlining Institute  
 Grow the Richmond  
 Housing Action Coalition  
 How to ADU  
 Linc Housing

Merritt Community Capital Corporation  
Midpen Housing Corporation  
Mountain View YIMBY  
Napa-Solano for Everyone  
Non-profit Housing Association of Northern California (NPH)  
Northern Neighbors  
Northern Neighbors SF  
Peninsula for Everyone  
People for Housing Orange County  
Progress Noe Valley  
Resources for Community Development  
San Francisco Bay Area Planning and Urban Research Association (SPUR)  
San Francisco YIMBY  
San Luis Obispo YIMBY  
Santa Cruz YIMBY  
Santa Rosa YIMBY  
Satellite Affordable Housing Associates  
Slo County YIMBY  
South Bay YIMBY  
Southside Forward  
Supportive Housing Alliance  
The John Stewart Company  
The Pacific Companies  
University of California  
Urban Environmentalists  
Ventura County YIMBY  
YIMBY Action

**OPPOSITION:**

None received.

**-- END --**

# Exhibit 9

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CONSENT

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Bill No: AB 1307  
Author: Wicks (D), Hoover (R) and Luz Rivas (D), et al.  
Amended: 6/26/23 in Senate  
Vote: 27 - Urgency

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SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 6/21/23  
AYES: Allen, Dahle, Gonzalez, Hurtado, Menjivar, Nguyen, Skinner

SENATE HOUSING COMMITTEE: 11-0, 7/10/23  
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla,  
Seyarto, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/22/23 - See last page for vote

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**SUBJECT:** California Environmental Quality Act: noise impact: residential projects

**SOURCE:** Author

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**DIGEST:** This bill specifies that public higher education institutions do not have to consider alternative locations for a project when preparing an Environmental Impact Report (EIR) for a residential or mixed-use housing projects if certain conditions are met, and specifies that noise from residents does not constitute a significant environmental effect under the California Environmental Quality Act (CEQA).

**ANALYSIS:**

- 1) Provides, under CEQA, when a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project could have



significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment. (Public Resources Code (PRC) §§21000 et seq.)

- 2) Identifies noise as one of eighteen environmental factors to be consider under CEQA review. (PRC 21060.5)
- 3) Defines “significant effect on the environment” as a substantial, or potentially substantial adverse change in the environment. (PRC 21068)
- 4) Defines a “long-range development plan” (LRDP) as a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education. (PRC §21080.09)
- 5) Defines “substantially surrounded” as cases where 75% of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. The remainder of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an environmental impact report was certified. (PRC §21159.25)
- 6) Defines “residential or mixed-use housing project” as a project consisting of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use. (PRC §21159.25)
- 7) States selecting a location for a public higher education campus and the approval of an LRDP are subject to CEQA and require an EIR to be prepared. (PRC §21080.09)
- 8) States approval of a public higher education campus is subject to CEQA and can be address via a tiered environmental analysis based upon an LRDP’s EIR. (PRC §21080.09)
- 9) States that using an LRDP EIR complies with CEQA’s requirements as long as the academic and campus population plans don’t take effect until after the environmental effects have been analyzed in an LRDP’s EIR or tiered analysis

based upon that EIR. Enrollment or changes in enrollment, by themselves, do not constitute a project as defined in Section 21065. (PRC §21080.09)

- 10) Defines “public higher education” as (1) the California Community Colleges (CCC), (2) the California State University (CSU), and each campus, branch, and function thereof, and (3) each campus, branch, and function of the University of California (UC). (Education Code §66010)

This bill:

- 1) Specifies that noises from occupants in residential projects does not count as a significant effect under CEQA.
- 2) Defines an LRDP as a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education. This mirrors the definition in existing law, PRC §21080.09.
- 3) Defines “residential or mixed-use housing project” as a project consisting of residential uses only or a mix of student residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential uses. This is similar to the existing definition in PRC §21159.25.
- 4) Defines “substantially surrounded” as at least 75% of the perimeter of the project site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. This somewhat broader than the existing definition in PRC §21159.25.
- 5) States that notwithstanding any other law or regulation, public higher education institutions – when prepared an EIR for a residential or mixed-use housing projects – shall not have to consider alternatives to the location of the proposed project if:
  - a) The project is located on a site that is no more than five acres and is substantially surrounded by qualified urban uses; and
  - b) The EIR for the most recent LRDP for the campus where the project is proposed has already evaluated potential areas of new development and redevelopment that could accommodate additional housing.

## Background

- 1) *The A, B, C's of CEQA.* CEQA is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment.

CEQA is a self-executing statute that is enforced by civil lawsuits that can challenge any project's environmental review. Public agencies, as well as private individuals and organizations, can file lawsuits under CEQA.

A lead agency reviewing a project under CEQA takes three progressive steps of environmental review. First, a lead agency looks the footprint of the project to determine if it can be exempted from CEQA. If it is not exempt, the lead agency then conducts an initial study, which examines 18 different environmental factors to determine if the project might have significant effects on the environment. If there are no significant environmental impacts or those impacts can be fully mitigated, the lead agency prepares an ND or MND. If there are environmental impacts that cannot be mitigated, the lead agency proceeds with the most extensive level of environmental review --a full EIR.

- 2) *What are the categories of EIR?* An EIR is the document that reflects how a particular project will affect the environment, both in its construction and operationally for years to come, but EIRs come in multiple flavors.

A project EIR, which is used most often, looks – in depth – at the environmental impacts of all phases of a specific development project (e.g., an office building or an apartment complex, etc.)

A program or programmatic EIR is a larger document that looks at a project which contains a number of sub-projects. For example, it may include some single family homes (SFH), apartment complexes, and retail shops – all of which may or may not be built at the same time – and it is not as in-depth as a project EIR, though it is broader.

A tiered EIR is one that is “tiered” off the programmatic EIR and focuses on the specific project within the larger project, operating much like a project EIR. For example, if the programmatic EIR was done for a SFH/apartment/retail project, a tiered EIR might be required when it comes time to build the retail

portion of the larger project. The tiered EIR would look more in-depth at the proposal and would consider changes that may have taken place since the larger programmatic EIR was adopted.

An LRDP is used by the UC, CSU, and CCC and functions as a combination programmatic EIR and general land use plan.

- 3) *Noise Pollution in CEQA*. Noise is one of the 18 environmental factors that lead agencies must consider in an initial study. Noise effects can include both the noise associated with construction and day-to-day operation of the project. For residential projects, analyses often consider how the project might conflict with local noise ordinances, but noises made by residents themselves are not considered as an effect for CEQA review.
- 4) *People's Park Case*. In a bid to provide more housing for its students, UC Berkeley proposed to build a student housing complex at the historic People's Park, situated close to campus. UC certified the EIR for the People's Park project in July and September 2021. In October 2021, *Make UC A Good Neighbor* filed a lawsuit to halt the project. In August 2022, the trial court sided with UC, but that decision was stayed *pending Good Neighbor's* appeal. In February 2023, the First Appellate Court of California upheld the appeal, finding that the EIR failed in two regards: considering alternative sites, and considering the noise impacts of residents in the proposed project. The court upheld that failing to consider the potential noise impacts from loud student parties in neighborhoods near campus in the was "a longstanding problem that the EIR improperly dismissed as speculative."

UC certified the EIR for the People's Park project in July and September 2021. In October 2021, Good Neighbor filed its lawsuit to halt the project. In August 2022, the trial court sided with UC, but that decision was stayed pending Good Neighbor's appeal

Under this ruling, the Regents would need to return to the EIR and consider alternative sites and consider the potential noise impacts of residents on the surrounding community (and provide feasible mitigation measures if it finds that there are significant noise effects from the project). While this ruling would not require the Regents to locate the building on an alternate site or address any noise from occupants—under CEQA, a project does not have to mitigate all environmental effects to move forward—it does require the Regents to go back to the EIR analysis. While the time it takes to conduct an EIR is highly variable,

it is often lengthy. For example, in Los Angeles, the median amount of time for an EIR to be finalized is 23 months.

## Comments

- 1) *Purpose of Bill.* According to the author, “AB 1307 would remove the potential for litigants to challenge residential development based on the speculation that the new residents will create unwanted noises. It would also reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA. As such, no longer could CEQA consider ‘people as pollution.’”
- 2) *Defining “Substantially Surrounded.”* This bill defines “substantially surrounded” as being an area where at least 75% of the perimeter of the project is surrounded by parcels that are developed with qualified urban uses (or has an improved public right-of-way between the project and the qualified urban uses). There is no restriction on what may abut the remaining 25% of the perimeter.

That is somewhat looser than the current law definition in PRC §21159.25, which requires the remaining 25% of the site perimeter to adjoin parcels that have been designated for qualified urban uses in a zoning, community plan, or general plan for which an EIR was certified (or has an improved public right-of-way between the project and those qualified urban uses).

- 3) *What If the LRDPs Is Out of Date?* Universities have been required to prepare EIRs for their long-range plans since the 1980s. No specific update interval is required and the practice among public universities varies. The LRDP adoption dates for UC campuses are:
  - a) UC Berkeley -- 2021 (2036)
  - b) UC Davis – 2018
  - c) UC Merced -- 2020 (2030)
  - d) UC San Diego -- 2018 (2035)
  - e) UC Santa Cruz -- 2005 (2020)
  - f) UC Los Angeles -- 2002 (amended in 2018, 2025)
  - g) UC Riverside -- 2021 (2035)
  - h) UC Santa Barbara -- 2010 (2025)

In the recent UC Berkeley case, the LRDP was considered to not properly account for population growth or adequately plan for housing. This bill unconditionally relies on LRDP (UC) or master plan (CSU and CCC) EIRs that

may be 15 years old and include no relevant analysis of the impacts of the proposed housing project. This is inconsistent with CEQA, where tiering or exemptions based on a prior EIR depend on the prior EIR remaining relevant, with exceptions when substantial changes occur or new information becomes available.

- 4) *Implications of social noise.* The *Make UC a Good Neighbor et al. v. Regents of the University of California* establishes a new precedent that noise from residents in projects should be an environmental factor considered under CEQA. Since all residences have residents and all residents make some amount of noise in their day-to-day lives, the result may be that all residential housing projects would need to conduct an EIR and specifically examine the impacts of the voices and living noises of residents in the project and surrounding areas. This could significantly slow down the CEQA process for residential buildings.

Potentially more alarming, the ruling specifically notes that noise impacts should be considered because *students* are noisy and more likely to party than other people. Assuming the behavior of residents, and the resultant impact of their behaviors on the environment, based on their identity sets a precedent to introduce identity-based discrimination into CEQA review.

- 5) *Turn Down for What?* CEQA does not need to be expanded to include noises from residents (or residents suspected of being inherently noisy), as there are already mechanisms in place to get noisy neighbors to quiet down. Berkeley County updated and strengthened its noise ordinance in 2021 to address various noise complaints. The noise ordinance defines noise as “any sound that is either loud, boisterous, unpleasant, unreasonable or that causes a disturbance of the public peace.” Violating the ordinance is penalized with a \$100-\$500 fine and a possible jail sentence up to 30 days. CEQA does not need to police noisy neighbors because the police already do so.

### **Related/Prior Legislation**

AB 1700 (Hoover, 2023) states that for the purposes of CEQA, population growth from a housing project and noise impacts of that housing project are not an effect on the environment. This bill is in the Assembly Natural Resources Committee.

SB 118 (Committee on Budget and Fiscal Review, Chapter 10, Statutes of 2022) specified that student enrollment, or changes in enrollment, by itself does not constitute a project under CEQA and applies this law retroactively.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 8/15/23)

American Planning Association, California Chapter  
Association of Environmental Professionals  
Bay Area Council  
California Association of Realtors  
California Housing Consortium  
California Housing Partnership Corporation  
California State Association of Counties  
California YIMBY  
Circulate San Diego  
City of San Jose  
East Bay for Everyone  
East Bay YIMBY  
Eden Housing  
Greenlining Institute  
Grow the Richmond  
Housing Action Coalition  
Housing California  
How to ADU  
Mountain View YIMBY  
Napa-Solano for Everyone  
Northern Neighbors  
Peninsula for Everyone  
People for Housing Orange County  
Progress Noe Valley  
Resources for Community Development  
San Diego Housing Commission  
San Francisco YIMBY  
Santa Cruz YIMBY  
Santa Rosa YIMBY  
SLO County YIMBY  
South Bay YIMBY  
Southside Forward  
Supportive Housing Alliance  
The Pacific Companies  
University of California  
Urban Environmentalists  
Ventura County YIMBY

YIMBY Action

**OPPOSITION:** (Verified 8/15/23)

City of Beverly Hills  
People's Park Council  
People's Park Historic District Advocacy Group

**ARGUMENTS IN SUPPORT:** California YIMBY writes in support: “On February 24, 2023, the First Appellate Court of California voted 3-0 to uphold an appeal in the case of *Make UC A Good Neighbor et al. v. Regents of the University of California*, which set a new precedent that upended the process for evaluating noise impacts under CEQA. The outcome of this court case will substantially delay the delivery of housing and further exacerbate our already substantial housing crisis. More perniciously, this ruling implies that certain groups of people be considered as creating a significant environmental impact merely because of the perceived risk of their behavior. Therefore, the ruling invites subsequent litigants in CEQA cases to sue residential projects that would house “those people.” This will exacerbate the racist and classist nature of housing policy and undermine recent state efforts to confront that past.

“AB 1307 is a straightforward solution that will protect the community and limit CEQA litigation abuse.”

**ARGUMENTS IN OPPOSITION:** The People’s Park Council writes in opposition: “The People’s Park Council is vehemently opposed to AB 1307. This legislation is custom tailored to allow the University of California to build over People’s Park without complying with the most fundamental requirements of the California Environmental Quality Act. Furthermore, we ask that you consider the possibly hundreds of other property owners throughout the state who will have their property taken by universities or colleges, without access to established environmental protections, should AB 1307 become law. Denying Californians the information about possible alternative locations for a housing project, as CEQA is intended to do, is legislative overkill.

“People’s Park is a National Register of Historic Places site and deserves individual and special attention including a project based analysis of alternative sites. Such a mandated analysis of alternative sites for this one unique project would not, in any conceivable way, obstruct California’s housing needs -- needs that we acknowledge to be real. Therefore, should AB 1307 proceed toward becoming law, we hope this body will see the reason in amending this bill to



exclude properties on the National Register of Historic Places or National Landmarks.”

ASSEMBLY FLOOR: 77-0, 5/22/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Chen, Lackey, Quirk-Silva

Prepared by: Brynn Cook / E.Q. / (916) 651-4108  
8/16/23 10:14:44

\*\*\*\* END \*\*\*\*

**S279242**

**IN THE  
SUPREME COURT OF CALIFORNIA**

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**MAKE UC A GOOD NEIGHBOR et al.,**  
*Petitioners and Appellants,*

*v.*

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA et al.,**  
*Defendants and Respondents,*

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**RESOURCES FOR COMMUNITY DEVELOPMENT et al.,**  
*Real Party in Interest.*

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AFTER A PUBLISHED OPINION OF THE COURT OF APPEAL  
FIRST APPELLATE DISTRICT, DIVISION FIVE,  
CASE No. A165451

APPEAL FROM JULY 29, 2022, ORDER AND AUGUST 2, 2022 ORDER AND  
JUDGMENT OF THE ALAMEDA SUPERIOR COURT; HON. FRANK ROESCH,  
DEPT. 17, CASE No. RG21110142 (CONSOLIDATED FOR PURPOSES OF  
TRIAL ONLY WITH CASE Nos. RG21109910, RG21110157, 21CV000995  
AND 21CV001919)

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**[PROPOSED] ORDER**

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IT IS HEREBY ORDERED that, pursuant to the pertinent provisions of Evidence Code sections 452, 453, and 459, and California Rules of Court, rule 8.252(a), judicial notice is taken of the legislative history of Assembly Bill No. 1307 (2023–2024 Reg. Sess.), which is attached to respondent’s motion for judicial notice as exhibits 1–9.

Dated: \_\_\_\_\_

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Chief Justice

**PROOF OF SERVICE**

**Make UC A Good Neighbor v. UC Regents  
Case No. S279242**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

On September 20, 2023, I served true copies of the following document(s) described as **SECOND MOTION FOR JUDICIAL NOTICE; DECLARATION OF JEREMY B. ROSEN; EXHIBITS; [PROPOSED] ORDER** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 20, 2023, at Burbank, California.

  
\_\_\_\_\_  
Ryan McCarthy

**SERVICE LIST**  
**Make UC A Good Neighbor v. UC Regents**  
**Case No. S279242**

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STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **MAKE UC A GOOD NEIGHBOR v. REGENTS OF THE UNIVERSITY OF CALIFORNIA (RESOURCES FOR COMMUNITY DEVELOPMENT)**

Case Number: **S279242**

Lower Court Case Number: **A165451**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **jrosen@horvitzlevy.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
BRIEF	2023-09-20 SB
MOTION	2023-09-20 MJN

Service Recipients:

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

9/20/2023

Date

/s/Jeremy Rosen

Signature

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