

The Fight Over CEQA Is On

Amy Quinton, Capital Public Radio, 2-11-13

What some see as California's most important environmental law, others see as an economic impediment.

The 43-year-old California Environmental Quality Act, or CEQA, guides almost every development project in the state.

Governor Jerry Brown and many lawmakers say it's time to modernize it. But how to do that is a question with no easy answers.

Mark Friedman is President of Fulcrum Properties. He's standing in a park at Davis Commons, a pedestrian-friendly sustainable development he built.

"We wanted to have a reason for people to come here," says Friedman. "We hit upon the idea that what we should have is a beautiful green space, a commons."

For most of us that wouldn't be the first thing that comes to mind in considering a 44,000 square foot retail space. But it was for Friedman.

"When we originally presented the plan to the planning commission for design review it was very very favorably received," recounts Friedman.

The storefronts at Davis Commons face the park, and the parking is hidden in the back. "They appreciated the important public gesture of devoting a significant portion of the site to a public park," says Friedman.

But that was before a group calling itself "The Friends of Davis" discovered that Borders Books was the anchor tenant.

The group sued under CEQA. Friedman says the lawsuit had little to do with the environment, but was instigated by an independent bookstore owner.

"You don't have to demonstrate you have an environmental interest that's been harmed and in fact you don't even have to disclose who you are," says Friedman.

It took several years, cost more than \$150,000 and ended up at the state Supreme Court before Friedman could finish Davis Commons.

California state Senator Michael Rubio, a moderate Democrat, is leading the charge to overhaul CEQA and stop abusive litigation.

"That's the argument we're putting forward," says Rubio. "Should CEQA be misused by some to delay or kill projects when it has nothing to do with the environment? There is an entire cottage industry that's out there today filing these lawsuits."

"You can point to one or two examples here or there but the reality is it's not slowing up a tremendous amount of development," says Bruce Reznik with the Planning and Conservation League.

He says study after study shows few projects end up in court because of CEQA. "The statistics are the statistics," says Reznik. ".3 percent of projects face litigation the majority of those ultimately get built, but usually they get built with more environmental and community protections."

Environmentalists like Reznik argue that CEQA needs to be strengthened, not reformed.

They say Rubio's effort last legislative session to overhaul CEQA would have emasculated it. "[It] would have rendered CEQA to us the most important foundational environmental law and community protection law in the state of California, really a moot point, a meaningless law."

The most contentious part of that bill would have blocked CEQA lawsuits if a project's environmental review met a city's general plan or state environmental standards.

"General plans are by their very definition general," says Democratic Senator Noreen Evans, a long-time CEQA supporter. "CEQA is designed to get into the weeds of any development and identify any potential negative impacts so that the local government can then require those be mitigated. This approach that would be standards-based would throw that out."

While Rubio's attempt at changing the law last session was unsuccessful, political pressure this session seems to be in his favor.

The governor has called for modernizing the law. And Senate President pro Tem Darrell Steinberg, who put Rubio's overhaul efforts last session on hold, says it's time for a change.

"I think after 40 years it's time for an update that protects the environment, but allows the process to work a little more efficiently and a little faster, especially for projects that we encourage like renewable energy, and other clean and green projects," says Steinberg.

There is some agreement on small changes, like revealing the identities and financial interests of litigants.

Several bills that would change CEQA have already been introduced.

But it will be a long battle before any legislation takes a final form.

To see arguments for CEQA reform, click [here](#). To see arguments to keep CEQA strong, click [here](#).