

*Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency*, July 20, 2000, 82 Cal.App.4th 511

In this consolidated case, the court set aside the Town's redevelopment plan and the program EIR for that plan. The court found that the Town lacked substantial evidence to support its claims that the project area is predominantly urbanized and subject to blight. The Town incorrectly counted vacant land as urbanized and failed to show that the "blighted" properties created any hazard to health or safety.

The court held that the Town's program EIR, which identified some 72 distinct projects which would be undertaken under redevelopment, did not contain sufficient detail about those projects. PRC Section 21090 and 21166, taken together, allow all the projects undertaken under a redevelopment plan to be considered one "project" for purposes of later CEQA review and prohibit the preparation of subsequent CEQA documents unless there are substantial changes in circumstances, changes in the project, or new information. The court held that applying Guidelines 15168 (program EIRs) to this redevelopment plan worked at cross purposes to the statutes unless the program EIR was detailed enough to analyze each of the 72 sub-projects.

The court opined that a redevelopment plan EIR is not a first-tier EIR in the classic sense, but rather a project/program EIR which requires greater detail and which does not allow the deferral of analysis. The court distinguished first-tier EIRs as allowing full subsequent review of later projects; whereas a program EIR prohibits such later review through its link to Section 21166.

The court also found that Guideline 15168(c)(1), providing for preparation of an initial study for later activities that "have effects that were not examined in the program EIR," conflicts with Sections 21090 and 21166. Particularly, section 15168 cannot require an initial study in a situation where Section 21166 does not. Despite what 15168 provides, the court seems to say, all later reviews under a program EIR are subject to the restrictions created by 21166 (and Guideline 15162).