

Redwood Christian School built a playground in violation of its pre-existing conditional use permit. The City entertained a modification to the permit in order to authorize the use. The permit and its accompanying mitigated Negative Declaration were approved by the Planning Commission and appealed to the City Council. The Council eventually upheld the Commission's approval, after preparation and certification of an EIR for the project. Eureka Citizens sued, alleging that that action violated CEQA. The trial court held for the City.

In the published portion of its decision, the Court of Appeal upheld the trial court. The City Council had required an EIR because competing noise studies submitted by Eureka Citizens and the project applicant raised a fair argument for a potential effect. Eureka Citizens alleged that the EIR was improperly prepared by the applicant, that it didn't adequately describe the project, the City's findings failed to address noise impacts, the project was incompatible with its surroundings, and the City failed to adequately respond to comments on the draft EIR.

The Court dismissed each of these arguments. Although the administrative draft EIR was prepared by the applicant, the City engaged a third party peer review and otherwise applied its independent judgment before the draft EIR was released for public review. This conformed to CEQA's provisions allowing an applicant to submit a draft EIR.

The noise experts hired by Eureka Citizens disagreed with the findings of the EIR. The Court noted that disagreement among experts does not invalidate an EIR. The EIR's noise analysis and related mitigation measures supported the City's finding that impacts would be less than significant.

Eureka Citizens argued that the playground adversely affected a historic neighborhood. However, the report prepared by a cultural resources firm that was included in the EIR did not find the neighborhood to be historic. Therefore, there was no evidence to support this claim.

Regarding the aesthetics of the playground, the City's initial study had concluded that the play structures would not have a significant effect. The Court found no substantial evidence that supported a claim to the contrary. On the issue of playground safety, the safety study included in the EIR supported the City's conclusion that the project "conforms with applicable laws and regulations."

Finally, there was nothing inadequate in the City's responses to comments on the draft EIR. They were well-reasoned responses.