

Hollywoodians Encouraging Rental Opportunities (HERO) v. City of Los Angeles (July 22, 2019) ___ Cal.App.5th ___

In 2015, the City approved the conversion of a vacant 18-unit apartment building into a 24-room boutique hotel on the basis of a mitigated negative declaration. The apartment building had been subject to the City's rent stabilization ordinance (RSO), but in an earlier action the owner had withdrawn the apartments from the ordinance under the Ellis Act and vacated all of the units.

HERO sued, alleging that the project would have a significant impact on the supply of rent-stabilized housing and dislocation of tenants. The trial court held in favor of the City. The Court of Appeal upheld that decision.

The Court noted that the baseline for CEQA analysis is normally existing conditions. In this case, the existing condition was a vacant apartment building that was no longer subject to the RSO. The City had properly determined that this was the baseline. The Court concluded:

In sum, we agree with the trial court that HERO's CEQA claim fails because the relevant baseline in 2015 was a vacant building that already had been withdrawn from the residential rental market. Therefore, the record does not support a fair argument that the Project would have a substantial adverse impact on Hollywood's stock of rent-stabilized housing or on displacement of residents.

The apartment building had been removed from the rental market after the City had approved a 39-unit condominium project that required its demolition. The condominium project was never started. HERO argued that the present boutique hotel project was an outgrowth of the earlier project and that the present mitigated negative declaration amounted to a piecemeal CEQA analysis. The Court disagreed: "There is nothing to suggest that the instant Project was "a reasonably foreseeable consequence of the initial project" (id. at p. 396) or that the initial study and 2015 MND were an end run around CEQA."

Because there was no impact on housing, there was no need to evaluate cumulative impacts.