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**MEASURING LAND-USE REGULATION:
REPORT TO THE MACARTHUR FOUNDATION**

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August 2007

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Measuring Land-Use Regulation in the San Francisco Bay Area: Report to the MacArthur Foundation

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Abstract

This document provides a narrative describing the theoretic setting, research methods and development of the survey instruments relied upon in the companion paper, “Measuring Land Use Regulation: An Examination of the San Francisco Bay Area, 1992-2007.” Here we report upon some of the survey-research antecedents to the Bay Area Land Use Restrictiveness Index (BLURI). The BLURI was developed in 2007 and is described in detail in the companion paper. Its precursors are surveys of land use in California cities by Glickfeld and Levine (in 1988 and 1992) and by Landis (in 1998), as well as surveys of the Philadelphia CMSA by Summers and her associates (in 2005). A key enhancement in the study of land-use regulation is capturing the perspectives and experiences of the regulated industry. We document the survey of Bay Area builders conducted in collaboration with the Home Builders Association of Northern California (in 2006-2007) and the survey of land-use consultants conducted in collaboration with the Bay Area Chapter of the Association of Environmental Professionals conducted in the same time period. The survey instruments are included as appendices to this report, and the raw data are available for download at <http://urbanpolicy.berkeley.edu>.

Corie Calfee, Paavo Monkkonen, and Joseph Wright, graduate students in Law, City Planning, and Public Policy respectively, managed the data collection, follow-up, and data assembly for this project. John M. Quigley and Steven Raphael served as Principal Investigators for the project. Larry A. Rosenthal, Executive Director of the Berkeley Program on Housing and Urban Policy, managed much of the survey design and is principal author of this report (lar@berkeley.edu).

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Measuring Land-Use Regulation in the San Francisco Bay Area: Report to the MacArthur Foundation

This narrative is intended to provide background detail augmenting the accompanying research report. The discussion below describes the theoretical and methodological underpinnings of the overall approach. In addition, we mean to document the ways in which our perspective on how to focus our efforts evolved over the history of the research project. The companion research paper presents our results, which at this juncture remain largely descriptive but, we hope, enlightening. The narrative below places that paper in useful context within the relative literature and policy environment. In turn, it details the twists and turns our team has negotiated thus far in charting what we feel is an as-yet untried set of multiple, triangulating approaches to the research challenges involved.

I. Introduction: Local Impediments to Housing Development

Coordinated policy to relieve affordability challenges in high-cost housing markets faces a major obstacle: power over dollars and land essentially lie in different hands. Successful public expenditure in the housing sector is often impeded by local resistance. This opposition takes the form of both political and regulatory inflexibility regarding new development. A growing number of scholarly studies documents the linkage between regulation and housing outcomes, as well as a variety of policy proposals to identify and dismantle regulatory "barriers" to the affordability of housing (see *Cityscape*, 2005).

Excessive regulation results in potential sites being withdrawn from otherwise buildable land supplies. As demand increases, local constraints drive up prices and exacerbate affordability challenges faced by low- and moderate-income households.

Other state and local controls – including fees and exactions, building codes, and environmental regulations – may add cost and delay to both subsidized and private-market projects.

For these reasons, local land regulation has been a prominent focus of national attention for well more than a decade. Since 1992, the federal government has encouraged state and local governments to remove regulatory barriers which "significantly increase housing costs and limit the supply of affordable housing."¹ This policy has been coupled with the desire to strengthen the connection between federal investment and liberalization of the regulatory situation on the ground. If they wish to participate in federal grant programs, states and localities are required to develop comprehensive housing affordability strategies (CHAS) which identify regulatory barriers and plan for their removal.² Federal law enumerates the following kinds of local regulation³ which might present regulatory barriers to housing development:

- Tax policies affecting land and other property
- Land-use controls
- Zoning ordinances
- Building codes
- Fees and charges
- Growth limits
- Policies affecting return on residential investment

II. A Continuing Research Challenge: Incomplete Regulatory Data

Government's capacity to design and carry out effective policy responses to excessive land regulation is hampered by irregular data on local practice. It remains quite difficult to assess regulatory effects on price, quality, supply, and other critical market

¹ 42 *United States Code* (USC) § 12705a.

² Title 42 USC section 12705(b)(4) requires grant applicants to "explain whether the cost of housing or the incentives to develop [affordable housing] are affected by public policies ... and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies"

³ 42 USC §12705(b)(4).

factors with any precision. This is due largely to the insufficient knowledge base on local adoption and implementation of various enactments and policies affecting new construction (Quigley and Rosenthal, 2005).

There exist relatively few systematic surveys of local officials documenting regulatory rules and enforcement. These surveys have been analyzed extensively, and these analyses are the evidentiary base for the most credible studies of the impact of local regulation on housing prices. One survey was undertaken by Linneman and Summers ("The Wharton Study") in 1990 (Linneman, 1990) in collaboration with the International Association of City Managers.⁴ That survey and indicators derived from it form the basis for studies by Green, Malpezzi and colleagues (Malpezzi, 1996; Malpezzi, Chun, and Green, 1998; Green, Malpezzi, and Mayo, 2005), and for several other well known economic studies. The second was a California study undertaken in 1988 and updated in 1992 by Glickfeld and Levine (1992) under the auspices of the League of California Cities and the California State Association of Counties, in collaboration with the Lincoln Institute of Land Policy. It forms the basis for studies by Rosenthal (2000) and by Quigley and Raphael (2005), among others. Other scholars have conducted and reported upon their own surveys, some quite impressive and even national in scope (Pendall, 2005 & 2000).

In April 2004 the US Department of Housing and Urban Development (HUD) sponsored a conference on regulation and housing markets, commissioning papers which reviewed the state of knowledge by leading academics in law, economics, planning and other fields. An outgrowth of that conference is a current HUD National Regulatory

⁴ Both the 1990 version of the Wharton survey and the 2005-2007 update of the instrument, are attached to this report as exhibits. Also attached are the 1988 and 1998 surveys of California practice.

Barriers Database (NRBD) initiative to develop and administer an ambitious survey of land use and housing regulations. As currently envisioned, the survey so developed will be administered to a random national sample of jurisdictions as well as the entire population of jurisdictions in a small number of sampled metropolitan areas (see Quigley and Rosenthal, 2004).

We now seek to consolidate these various existing data sources, while adding a number of newly developed elements. The geographic focus here is the nine-county San Francisco Bay Area metropolitan area. New information generated for this study includes separate 2007 surveys of builders, local land-use officials, and consultants specializing in evaluations under the California Environmental Quality Act (CEQA), as well as new cross-source analyses of these various sources. We hope the methods we develop and expand upon in the companion paper may have application in other regions.

III. State, Regional and Local Factors

As our work on the NRBD effort reminds us, no analysis of local regulatory behavior (by regulators, regulated firms, and others) can gain traction without identifying exogenous legal and regulatory factors dictated by the state environment in which residential building permit applications are submitted and processed. California's stands as one of the most diverse and complex state legal systems. These factors are manifest in the way the regulatory environment is structured, the number of legislative and administrative bodies involved in the ordinary course, and the regularity of systemic changes due to an active, citizen-based reform process (see Quigley and Raphael, 2005). Characterizing California's land-use and regulatory systems in anywhere near sufficient detail lies well beyond the scope of this report. For informational purposes, we have

attached as Appendix 1 a brief web-based publication summarizing those systems' essential elements.⁵

The idiosyncratic nature of various states' development laws and regulations means that lessons learned in individual states may not be replicable – or even particularly applicable – in other states. The responses acquired from local land-use authorities simply cannot be adequately understood without capturing key, largely exogenous regulations and influences on their policy choices and project-level decision-making. We hope that our research efforts in one region in one large and unique state will allow later research to better calibrate these institutional environments. At a minimum, we seek to limit the generalizability of our findings within their specialized context. Pretending there is uniformity, in situations exhibiting considerable institutional variety, can frustrate the core purposes of the policy-research enterprise.

Along the same lines, we report on our study with an understanding that regulators and builders are actually only two kinds of stakeholders in these complicated social environments. The table which follows reflects our attempt to generate a more inclusive list of those having investments, observations, and viewpoints regarding the ways in which regulation affects residential development, housing affordability, neighborhood composition, and related issues. A more comprehensive study of the phenomena would naturally involve greater coverage of these additional players and their roles.

⁵ The appendix is a summary of a longer legal publication on California land use procedures (Longtin, 2007 [downloadable via <http://www.longtinslanduse.com/docs/ProceduresTimelines.pdf>]).

A Descriptive Sample of Stakeholders in Land-Use Regulation and Housing Development

Low-income housing providers such as public housing authorities.

Market-rate homebuilders are finely attuned to questions of process and the impact of regulations on their bottom line.

Affordable housing developers and associations (especially nonprofits) may identify issues that differ from production builders.

Manufactured housing associations.

Realtors.

Advocates for low-income renters and first-time homebuyers.

American Planning Association state chapters, including chapter presidents and lobbyists. Some APA chapters also have sections for geographic sub-areas.

Municipal leagues of cities, towns, and counties lobbying state legislatures and agencies. Leaders can identify knowledgeable elected officials from the local level to serve as expert advisors.

Associations of building officials may be helpful in identifying non-discretionary regulatory barriers as well as procedural issues with approvals.

Special district and school district associations can instruct us on questions about infrastructure capacity. They also may be helpful in determining whether separate surveys ought to be developed for special and school districts. (We expect great institutional variety across states along this dimension.)

State housing finance agencies and allocation entities review tax credit applications and already interact with local governments concerning specific project proposals. Their determinations depend strongly on local receptivity to affordable development; they have both expertise on, and direct stakes in, local regulatory outcomes.

State departments of housing and community development may govern small-city CDBG funding as well as executive-branch policymaking across gubernatorial administrations.

State departments of environmental protection, conservation, wildlife, and fish and game may help identify constraints affecting local regulatory policy.

State departments of local government affairs know municipal structure and can provide access to directories and information about who's who in local government. Some states already do their own surveys of local regulations through such departments.

Attorneys in American Bar Association and state-bar land-use sections.

Academics teaching in planning schools, public policy and administration programs, and law schools.

Smart growth organizations.

Source: Rosenthal (2007).

IV. An Integrated Research Approach

Land-use regulation in fact encompasses a number of interrelated social processes. When a developer buys land with residential potential, a private buyer-seller transaction occurs. But that deal immediately dons public features. In practice, that purchase and the project proposal which follows amount to a petition by the developer, issued to the neighbors and voters of that locality. In effect, the developer is petitioning for the right to alter the built environment, initially for the developer's private gain but

ultimately for the advantage of end purchasers and occupants. The building-permit application and associated review processes formalize the community's review of that builder's petition.

The ensuing set of negotiations regarding the net impacts of new construction comprises numerous social processes, from community composition to local fiscal choice, from review of architectural consistency, neighborhood design and streetscape, to the analysis of transportation and other infrastructure impacts. The more complicated the local and regional economy may be, the more complex the external impacts of the developer's proposal become. At its most rational, the land-use regulatory process relies heavily on an accurate projection of such impacts. In turn, local prerogative to evaluate and modify a project's costs and benefits – in fiscal, environmental, municipal, and neighborhood-quality terms – is most defensible when a given project most impacts genuine civic concerns. Needless to say, not every building-permit review process proceeds in perfectly rational fashion.

Yet even where such processes proceed logically and efficiently, there is little reason to expect that regional needs will always coincide with local choice. The fragmentation of municipal government nearly guarantees that smaller units will not share identical preferences on policy, design, and neighborhood composition. In the bigger picture, it may be socially preferable for them to compete with one another for the residents and businesses choosing among various possible locations (Tiebout, 1956; Burns, 1994). The study of regulatory "barriers" erected by cities and towns, in this way, is really a study of how localized prerogative may conflict with allocations optimized for,

and in many cases urged by, government units responsible for larger geographies (Schill, 2005; Rusk, 2003).

In earlier work we have laid out a number of guiding principles to be observed in exploring these complicated phenomena (e.g, Quigley and Rosenthal, 2004). Several of these concepts helped determine our approach toward this multifaceted examination of land-use regulation in the San Francisco Bay Area. First, in general it is important that measurement of regulation and builder response be conducted at the level where choice dictates outcomes. This usually means that units of land-use governance - in California, cities governing their jurisdictions and counties regulating the remainder – are the appropriate geographic focus. Second, it is critical that research attend to perceived causes and outcomes simultaneously. Too often, past research has failed to synchronize measures of regulatory impact with the data collected on enactments, permit approvals and denials, and the like. Observation of builder perception concerning projects and their locations is one strategy to address this challenge. Third, a number of localities promote certain forms of residential and fiscal growth, even while seeking to deter others. This means identifying regulation and response regarding measures of "hospitality," as well as restrictive constraints tending to reduce rates of development.⁶

A final consideration centers on the desire to focus not just on the regulators but the regulated as well. Numerous jurisdictions have similar rules on their books, but actual effects can vary enormously depending upon how ordinances and other regulations are interpreted and enforced. Moreover, written regulations are often only the starting point in complex, drawn-out negotiations between localities and developers. Particularly

⁶ Hospitable measures promoting growth and tending to counteract restrictions include inclusionary zoning ordinances, density bonus programs and recent upzoning, redevelopment financial incentives, and fee reductions and waivers.

in smaller towns lacking regularized bureaucratic procedures, public-private interactions in this sphere can be quite informal and particularly hard to measure with any accuracy. It thus becomes even more important to gauge practices and their impacts via the perspective of the builders and developers who must contend with regulators.

Policy research in this area is governed by the need to understand how regulations shape development outcomes, and to help identify prospects for improvement and reform. Questions motivating the current analysis include:

- 1) What kinds of regulatory action exert the greatest upward pressure on home prices?
- 2) How do developers and builders best finesse the constraints they find in the places they wish to do business?
- 3) Are conventional survey-based measures of land-use restrictiveness stable among communities over time?
- 4) How well do such measures correlate with publicly available outcome measures, such as flows of building permits, housing-unit growth, and changes in population density?

As we have recognized from the outset of our work on this project, surveying builders' perceptions about the effects of land use regulation may be even more difficult than surveying public officials about the regulatory practice and procedure. Builders may have strategic reasons for non-disclosure of their costs and the effects of specific regulations on costs. They may have competitive reasons for not disclosing how to receive favorable interpretations of rules or avoid them altogether. They may not know the impacts of rules on construction costs and supply prices. Finally, individual builder experience may depend upon so many idiosyncratic details as to be essentially uninterpretable from a research standpoint.

V. A New Focus: Builders' Experience

To move the study of land-use practice forward, therefore, it must be recognized that the regulator's perspective on zoning and growth control is only one view. While it is relatively easy to learn what kind of regulations a town has adopted, and perhaps why, it is often difficult to determine the precise effects of individual enactments on housing markets. The builder's viewpoint, on the other hand, likely concentrates on three readily divisible features of the regulatory setting, depicting the *incidence* of local rules, not just their design and adoption:

A. Regulatory cost. Regulation can add direct cost, through fees and exactions. It can also indirectly increase factor prices, such as through withdrawal of land from otherwise buildable supplies (Downs, 1991). Like other modes of production, the function and health of construction markets depend upon regular, least-cost availability of materials and labor, sufficiency of demand volumes, responsiveness of evolving design and technology features to current tastes, and access to satisfactory profit-potential counterbalancing financial and other risks. The tighter the financial margins in various markets, the less room there is for extreme regulatory costs. In California, line items for legal counsel, environmental consulting, design review and other expenditures are exorbitant. When averaged over a high enough volume of units in large projects, regulatory cost indeed can be passed on to end-consumers. But even where this is the case, builders shoulder increased capital expense underwriting necessary outlays during the approval process. In addition, regulation often occasions outright wealth transfers from the producers of housing to the end-users and the broader community, in the form of impact fees, exactions and infrastructure-investment requirements (Been, 2005; Landis,

2003). In addition to formal procedures, increasing numbers of metropolitan jurisdictions now feature negotiation of "community benefit agreements" with leading civic organizations and neighborhood groups, and such agreements can further extract value from the developer's bottom line (Musil, 2006).

B. Regulatory delay. Forcing developers and entrepreneurs to observe more extended timelines of production than they would otherwise choose costs real resources. Delays in the permitting process – particularly those unforeseen when pre-investment financial analyses are undertaken - can cause developers to incur added interest cost, taxes, inflation, and overhead expenses (see Mayer and Somerville, 2000). Additionally, attenuated delays often amount to a midstream changing of the rules. Such slowing of the process is known to provide the regulator unfair leverage and create inefficiency, since the applicant's proposal and investment are essentially "hostage" to the eventual outcome, at the regulator's caprice and whim (Heckathorn and Maser, 1987).

C. Regulatory uncertainty. Even for relatively risk-inclined firms and individuals investing in residential projects, the opacity and unpredictability of local regulation is particularly frustrating. Too often initial decisions on entitlement requirements and outcomes are too discretionary. Anytime development opportunities are made conditional – as opposed to "as of right" – there is a risk that they will be politicized and that treatment of building applications will not be as fair and equitable as it could be. Even the most overly restrictive local systems would be improved simply by making their terms as transparent as possible.

Excessive regulation may also complicate relationships among builders and recast the competitive setting in which they operate. Real estate developers are often heard to gripe about onerous entitlement processes. Yet it is overly simplistic to characterize postures of regulators and builders as always adversarial. Builders who successfully and profitably navigate the entitlement process in one locality may then benefit when proposing future projects in that jurisdiction. Strict rules and requirements stand as a barrier to entry, but those establishing the necessary knowledge base, and personal and political relationships, may then realize advantages relative to others who wish to build. Land-use regulation has long been modeled as monopolistic (see, e.g., Quigley, 2007; Pogodzinski, 1991), and repeat-players in such systems may benefit as a result.

Another important area is redundancy and the challenges it poses to measurement of restrictiveness. Take, for example, the case of a municipality enforcing minimum lot-sizes for new single-family units in large subdivisions, with an interest toward creating a rustic neighborhood feel. At the same time, that authority may also require a minimum setback between the curb and the home's footprint. There may also be height and bulk limits with which a builder must reckon. To comply with these regulations in combination, a builder would be forced to develop land at lower densities than might otherwise be preferred. This summative effect might be traced carefully, so that over a sample of jurisdictions and projects, localities might be accurately ranked as having more or less restrictive approaches toward land-use intensity in general.

However, there is much more than aggregate densities at play, particularly when we attempt to isolate those regulations adding greatest cost. Any real precision in estimating specific effects of individual regulations and practices is likely to elude

economic and policy analysis. Absent a level of detail in data on kinds of regulation and blow-by-blow reporting on adjustments made in review of specific projects, it is indeed difficult to ascertain which regulation adds what cost across a sample of projects. Developing a weighting scheme by which the relative effect of each restriction on cost, or affordability – in zoning ordinances, building codes, growth management plans, and a variety of other typical enactments and less formal processes – necessarily amounts to a kind of speculative guesswork at best.

These complexities motivate research concerning the regulated sector. One key objective for a study like this is to measure developers' experiences in ways which elicit their perceptions relating to one metropolitan area (in this case, the San Francisco Bay Area). The hope is that the new protocol can be utilized for eliciting such information in other metropolitan areas. In one sense, we seek to lay the foundation for enumerating factors inhibiting development, commonly identified by market participants over time and across regions. Those features should better inform scholars and observers regarding idiosyncratic features of US housing markets.

At the same time, we will craft a refined sense of which elements of these interactions are subject to quantitative measurement and which really are not. By elucidating the regulated-industry aspects, we will better understand the connections between written regulation and housing costs, and better trace the variation in ways written regulations are implemented. In turn, this set of recognitions will be iterated as later surveys track the behavior of a larger, more varied set of market participants.

VI. Tracing Builder Attitude: Some Illustrative Vignettes

In qualitative terms, we learned much from meetings and interactions with individual Bay Area developers and builders, as well as with membership organizations representing the regional construction industry. A stylized way of presenting these revelations is to report a series of short vignettes from our experience, and to discuss the lessons learned from each. In no instance were we entirely surprised by any of these vignettes and the lessons they illustrate. We report them here merely to emphasize key aspects of the research environment and the challenges involved. These narratives are not meant to be exhaustive or probative in any strict sense. Rather, we include them here to add color and depth to the theoretical and measurement challenges our research team confronted as this work evolved.

A. Vignette #1: Lobbyist glut

Story. Members of our research team elected to seek collaboration with building industry groups, to facilitate the logistics and subject matter for our further set of inquiries. We reported to one regional building industry group our interest in conducting a survey of their membership, in order to identify the experiences and attitudes of individual developers and builders regarding land-use regulation.

We scheduled a first informational meeting with a single executive on the staff of this group, hoping to secure support for the project. The meeting was set for an early morning at the group's central offices. At a minimum, we wished to receive names and email addresses of potential respondents for our upcoming on-line survey of builders. Ultimately we received quite satisfactory collaboration along these lines.

When we arrived for the meeting, we were met with a room full of the group's staff and lobbyists. While the topic we broached was how we might implement our research plans, the group had been assembled without our knowledge to emphasize the nature and extent of regulatory barriers facing residential construction. Along with the group's executive director and general counsel, there were three or more additional participants in this initial discussion, all from outside lobbying firms representing builders' interests before municipal and state legislative bodies in the Bay Area and Sacramento.

Lessons. The measurement of builders' experiences of and attitudes toward land-use controls is an inherently political exercise. Professionals representing the industry's legislative interests and fostering its reform agenda are likely to view academic research as a kind of high-value opportunity.

B. Vignette #2: Development by committee

Story. We interviewed a "vertical" developer of high-rise condominiums in a major urban center. The developer reported that successful projects typically take five years or more to finalize the entitlement process, and can take up to a total of ten years from original proposal to completion of construction. The developer referred to having a variety of projects in the firm's "pipeline" at any one time, each at various stages of the entitlement and construction timeline.

For each project in the development portfolio, critical "decision points" may require meetings of the firm's decision "team." With deeper investments sunk into projects over time, the firm utilizes a majority-rules approach toward determining whether the firm will continue to pursue a project. Aside from entitlement-timeline

events occurring for all projects, the developer also described idiosyncratic events and the decision points associated with them, such as challenges by neighborhood opponents and formal litigation.

When asked to describe the makeup of the firm's decision team, the developer identified ten or more voting members regarding such projects, by role:

- Several investment partners, having personal financial exposure
- An "expediter" handling matters with the city's planning office
- A CEQA consultant
- A land-use attorney
- A business transactions attorney
- The firm's financial officer
- An architect
- One or more project engineers
- A political consultant

When asked how the firm affords the cost of employing such a large, diverse set of high-priced professional services for each critical project go/no-go decision, the developer indicated that payoffs for entitling condominium properties are substantial. We prompted the developer to provide a ballpark estimate of the potential upside. The developer indicated that the firm pays costs in the range of \$50,000 to \$75,000 in construction and associated costs "per door," i.e., per condominium unit. It sells fully entitled property to a construction firm at sales prices in the range of \$100,000 to \$125,000 per door, or more. The developer also proudly mentioned a circumstance where an initial projection of \$10 million in profit from a large project grew to \$60 million, simply because the delays eventuated by the approvals process coincided with a drastic change in market conditions.

Lessons. A study of "builder" attitudes and experiences actually involves a number of stratified viewpoints, among members of large firms and developer teams. Not only is there likely to be a diversity of opinions and viewpoints among a large group,

responsibilities over protracted, complicated entitlement processes are likely to be divided and distributed. The diffusion of perspective and recollection multiply over time, given staffing turnover and other factors. Due to the nature of California's regulatory systems, these factors may be present even when the scale – of projects and firms – is relatively small. The notion of a prototypical "builder's" experience of regulatory impediments thus may be somewhat of a misnomer. Efforts to survey the regulated sector must grapple with such complexities.

Additionally, it appears that firms with the patience and financial wherewithal to "wait out" time-based entitlement cost and delay enjoy relative competitive advantage. They accomplish this in part by phasing a set of projects at various stages of the regulatory process over time. Across a portfolio of opportunities, the median firm may well treat regulation-driven expense and risk as just another analytical factor in evaluating its investment choices. The risk-based investment view is a common thread, at least on the strictly financial side of the business.

C. Vignette #3: Simplicity is elusive

Story. An early interview with a developer indicated that our study might usefully distinguish among specific categories of regulatory review in attempting to capture the magnitude of cost, delay, and uncertainty. Three broad divisions were suggested:

- Projects requiring negative declarations, environmental impact reports (EIRs), and other review and documentation under CEQA
- Projects requiring general plan amendments (GPAs) to be approved by a planning commission and city council
- Projects requiring conditional use permits, variances and other rezonings (collectively, CUPs)

This three-way scheme appealed to us, so we utilized it in planning a later interview with a professional CEQA consultant who also prepared reports and supporting documentation relating to GPA and CUP phases of review. Additionally, that consultant had a thirty-year track-record working on residential projects in numerous Bay Area jurisdictions. When we asked that consultant to list jurisdictions where work had been completed on EIRs, GPAs, and CUPs, that consultant indicated that the usual project involves at least two of these categories, if not all three.

Lessons. While formal laws and procedures identify government controls according to divisible categories, the impacts on individual projects are likely to be irretrievably intermingled among various regulatory elements. In addition, those with the greatest knowledge of these impacts – across localities, projects, and time – have a proprietary interest in participating in as many regulatory realms per project as possible. Their recognition and recollection of which requirement caused what effect are likely to be sketchy at best.

D. Vignette #4: Environmental opposition may mask other sources of resistance

Story. In several meetings with developers and their colleagues, it was revealed to us that the actual opponents driving environmental litigation were not community-based environmental groups at all. Rather, such opposition is often sponsored by competing firms and labor unions. The genuine gripe, which when identified provides the basis to compromise and settle the purportedly environmental claim, relates to competitive advantage in business terms, not regulatory ones.

Lesson. Regulation of the built environment may provide strategic opportunities for those with other agendas to increase the cost and slow the pace of residential

development. Abuse of claims-based systems suits the policy interests of neither the regulator nor the regulated industry. Empirically, much of the real story of how regulation affects housing cost may be missed if one simply tries to count enacted measures, hearings, and lawsuits.

These vignettes and lessons help inform our effort to formulate a summative, multiple-perspective approach toward studying and understanding these phenomena. When single-lens focus proves difficult, triangulation of the subject may be a second-best strategy.

VII. Measuring Builders' Perceptions: Improving On Focus-Group Method

We initiated this study with a desire to add key perspectives in land-use regulation which have not been attended to adequately in the past. We hoped to elicit information from knowledgeable local housing suppliers that might identify those rules and procedures most affecting the cost of producing new housing in different jurisdictions within the San Francisco Bay Area. To the extent that price increases in part reflect efforts at regulatory-cost recovery, one might in principle draw a direct correlation between builder experience and affordability conditions faced by consumers.

At the outset of this project, we believed that gathering builders in focus-groups to discuss their experiences would provide a sound basis for measuring the regulatory realities on the ground. We envisioned convening one meeting of builders per county, or perhaps one meeting for each pair of counties; a sufficient number of such meetings would provide coverage of the metropolitan area as a whole. Participants would be selected from the membership rolls of the California Building Industry Association.

We anticipated focusing upon the highest placed executives within each firm, those having the widest-lens overview of how projects fared in the regulatory process. We imagined submitting to each participant maps and pens of different colors (say, green, yellow and red) depicting the relative degree of regulation present in each place. At one stage in our planning, we pictured having focus groups color in maps twice: once before any discussion among the participants, and again after some open-ended conversation and perhaps some presentation concerning how prior surveys⁷ have depicted the regulatory conditions in the cities and counties under consideration.

Several factors caused us to rethink the focus-group approach.

A. Bias in the focus-group process. Experienced scholars in social psychology and psychometrics advised us that focus-groups are notoriously prone to numerous types of bias. Compared to written surveys and one-on-one interviews, focus-group participants may be overly influenced by the opinions volunteered by others, particularly if a vociferous "alpha" participant commandeers the proceedings. Others may "free ride" on the voiced responses, even if they have strong, adverse opinions. Introverted participants may feel disempowered or dominated by those speaking more. In complex group settings, session moderators find it particularly difficult to maintain neutrality and avoid implications in their tone and demeanor that they approve or disapprove of various responses from participants. Across a number of sessions, it is difficult to control the variability of moderator choice and group dynamic. Focus group processes may function well in applications relating to marketing and group attitude. However, as vehicles to ascertain quantitative measures of specific individual experience – particularly where the

⁷ Prior surveys include those conducted by the League of California Cities and the California State Association of Counties (see Glickfeld and Levine, 1992; Levine, 1999) and the state's Department of Housing and Community Development (Landis, 2000).

underlying phenomenon at issue is itself quite complex – focus groups suffer a number of fundamental disadvantages (see, e.g., Crawford, 1997).

B. Scheduling burden. It became clear at the outset that our target population for the focus groups involved extremely busy people, each of whom likely assigns relatively high dollar-values to their time. We had planned to convene groups of the most involved, informed, and knowledgeable individuals among small and large firms with the necessary experience. Had we proceeded with this plan as originally conceived, we faced substantial difficulties getting the right people all in the same room at the same time. Given the need to hold several such meetings to adequately cover even one major metropolitan region like the Bay Area, this factor led us to reevaluate the method we had first contemplated.

C. Diffusion of authority within firms. Our initial conversations with builders, attorneys and local officials informed us that governance and communication systems within development and building firms can be quite diffuse. Highest-level executives rarely involve themselves in the day-to-day regulatory intricacies on individual projects. Mid-level managers lack perspective across an ever-changing set of projects within larger firms' portfolios. Most firms procure attorneys and consultants to navigate the entitlement process; much of these professionals' work-product remains confidential and may not be readily available for description during focus-group sessions. The more we learned about these arrangements and interactions, the more challenging the task of composing effective focus-groups became.

D. Reluctance to divulge proprietary advantage. A subtle feature of local regulation is the human side of the phenomenon. Land-use controls and review processes

involve people, and many are ingrained within highly political work settings. Advantage is sought and attained via informal social interactions and relationship-building over time. "Expeditors" earn a living helping developers navigate the regulatory system. In areas known for both development opportunity and neighborhood resistance, political consultants are brought in to market a proposed project and finesse opposition. For successful firms – developers and consultants alike - experience across various jurisdictions constitutes a form of proprietary advantage. We became convinced that focus-groups were unlikely to overcome participants' natural disinclination to reveal information constituting, in their worlds, a kind of trade-secret.

**VIII. Measuring entitlement risk (A):
2007 Survey of Bay Area Builders⁸**

Entrepreneurial risk-taking is a key engine driving economic growth. Society enjoys the benefits of competition in residential development, much as it does in other productive sectors of the economy. A standard level of business uncertainty attends residential investments, as it does any other line of work. Quite apart from their need for building-permit approvals, developers cannot always dependably predict fluctuations in ordinary business factors such as prices of supplies, wage levels, interest rates, aggregate demand conditions, and individual consumer tastes and preferences.

Those market players with more accurate predictions often attain superior outcomes. Investors are accustomed to projecting both the "hard" and "soft" costs of their residential-development opportunities. However, regulations adding excessive, non-market risk to firms' investment decisions may be valuable candidates for reform.

⁸ This section draws upon Wright (2007).

This could particularly be the case where regulation appears to inhibit the healthy function of otherwise normal market institutions.⁹

The following table identifies differences in implicit land values based upon regulatory status in the entitlement process. It was obtained confidentially from a local assessor's office. The table shows the wildly varying, and potentially large, markups available to builders who steer a steady course through all layers of regulatory review to a successful conclusion.

No.	Property Address City	Un-entitled Price (\$/sq.ft) Date	Entitled Price (\$/sq.ft) Date	Percent Price Increase	Time Elapsed (years)	Annualized Price Increase	Final Entitlements (# of units)
1	557 Merrimac St. Oakland, CA	\$44 4/9/2004	\$254 Pending	471%	2.5	189%	40 condos
2	453-471 23 rd St. Oakland, CA	\$155 5/11/2006	\$194 Active	25%	0.5	51%	60 condos
3	2489 MLK Jr. Way Berkeley, CA	\$52 7/28/2004	\$247 Active	378%	2.5	151%	21 condos
4	2628 Telegraph Ave Berkeley, CA	\$114 7/15/2003	\$181 7/15/2005	59%	2	29%	15 apts. [†]
5	700-718 Clay St. Berkeley, CA	\$160 9/13/2005	\$283 5/31/2006	77%	1	77%	24 condos
Oakland Average		\$100	\$224	125%	1.5	83%	
Berkeley Average		\$109	\$237	118%	1.8	65%	
Berkeley: Condos Only		\$106	\$265	151%	1.8	86%	
Overall Average		\$105	\$232	121%	1.7	71%	

Source: Wright (2007).

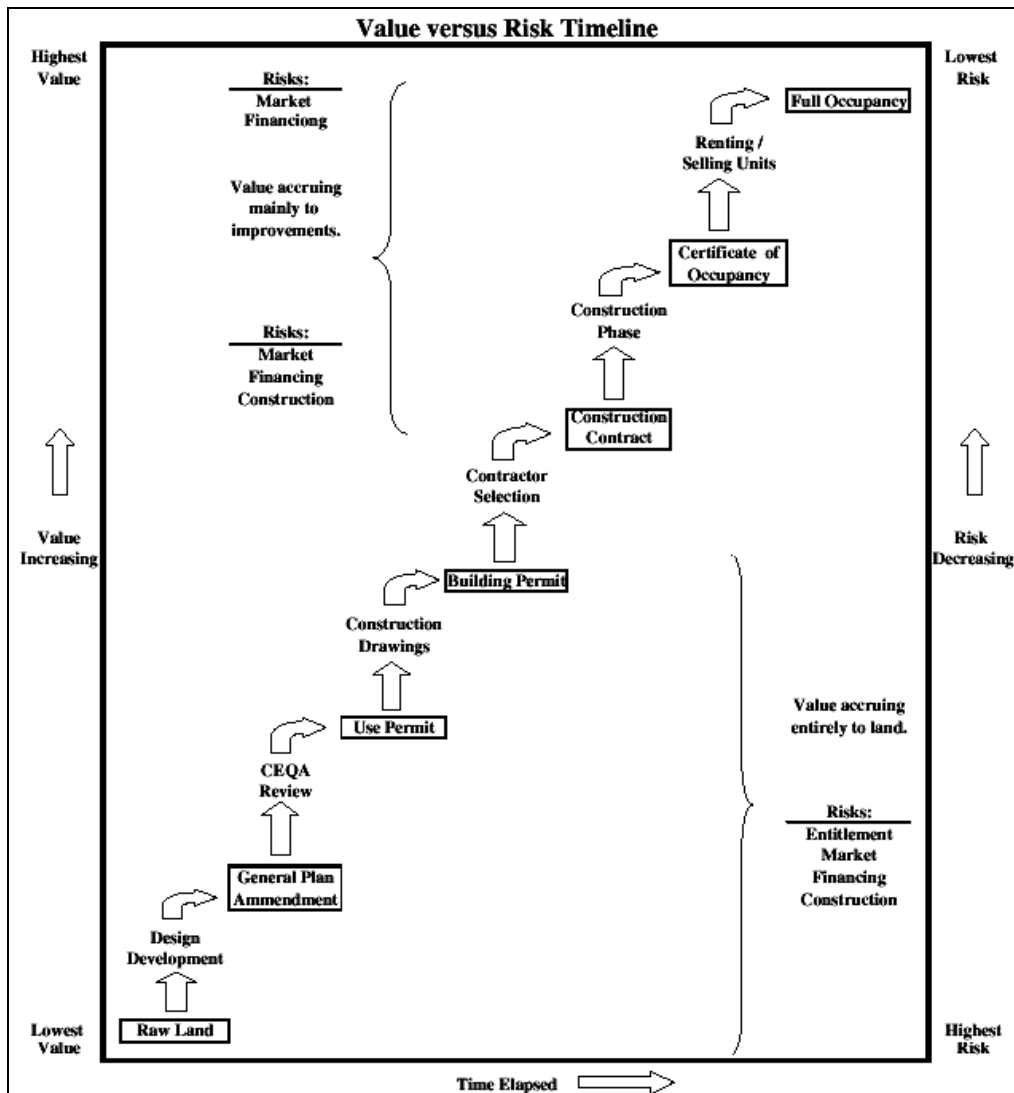
One direct way of identifying builder perception of regulation is thus to frame the inquiry in terms of "entitlement risk." When a developer purchases an unimproved land parcel without development rights yet established, the additional investment necessary to secure those rights stands as one market-level indicator of the risk borne when the land is

⁹ An interesting, related literature treats strict land-use control as a form of monopoly exercised over construction-firm buyers by jurisdictions enjoying a form of consolidated, unitary power over factor supply, but in a setting where builders and end-users exercise intra-regional choice over which of many local sole-source suppliers they will utilize (see, e.g., Thorson, 1996; Hamilton, 1978).

purchased.¹⁰ For this reason, builders often buy entitled land from entrepreneurial land developers once the regulatory process is already managed to a successful conclusion. The profit realized by the original developer covers the cost and time of the approvals process; the price may also add a premium reflecting the risk-aversion of the acquiring builder. Our 2007 survey of Bay Area builders and developers treats their assessments of what the instrument termed "entitlement risk" as a proxy for whether regulatory processes in particular localities are reasonable, efficient, and predictable.

It is informative to map risk-based cost and investment-return factors for a given project against a customary regulatory timeline that project may endure in the entitlement process. The basic parameters of that timeline may be distilled quite easily from summaries of land-use law and procedure such as Longtin (2007), and other sources. The following diagram helps depict the ways in which time and delay influence risk and reward in California's residential development processes.

¹⁰ An additional measure is the risk-adjusted financial prospects for land before and after being entitled. We learned that typical loans for unentitled land are 350-400 basis points over the London Interbank Offered Rate (LIBOR) and are generally private equity recourse loans at fifty percent loan-to-value.



Source: Wright (2007).

The time necessary to obtain necessary approvals varies dramatically within and among different jurisdictions. Much depends upon whether a GPA and/or a full EIR is deemed necessary.¹¹ We learned that in the City of Berkeley – reportedly a strictly regulated place, in relative terms - the rule of thumb is two years for the environmental

¹¹ In numerous circumstances the need for a full EIR will be obviated by the jurisdiction's approval of an applicant's "negative declaration" that, upon completion of a preliminary study, there appears "no substantial evidence that the project may have a significant effect on the environment." Applicants may also submit a "mitigated negative declaration" averring that significant environmental effects have been eliminated due to revisions to the project or new mitigation measures which will be implemented and monitored. See generally http://ceres.ca.gov/ceqa/flowchart/lead_agency/EIR-ND.html. Such declarations negate the need for a full-blown EIR only when the locality agrees. Conflicts between builders and cities/counties over the predicted environmental impacts of a project are a frequent source for the litigation affecting housing production in California (see Barbour and Teitz, 2005).

review alone. Additional delays or cancellation may result if legal action or a local referendum is brought against a project. Success often depends on the level of community opposition and may require separately negotiated development agreements.

For developers with the ability to make long-term, gradual investments in the entitlement process – essentially "waiting out" initial opposition – the eventual approval may coincide with tighter market conditions and elevated price levels. On the other hand, initial profit projections can also err on the high side; some developers will have to watch boom-markets come and go while they await project approval, or while they appeal, litigate or reapply when a permit is initially denied. Entitlement risk thus involves not only the uncertainty of whether a permit will issue, and when, but also more traditional brands of uncertainty relating to the timing of market conditions.

In order to deepen our understanding of risk perception in the Bay Area builder community, we collaborated with the Home Builders Association of Northern California (HBANC), a non-profit association representing homebuilders and industry professionals. HBANC is a regional affiliate of the statewide California Building Industry Association (CBIA), an entity not unlike the National Association of Homebuilders (NAHB) in its composition and programmatic emphases.

Our collaboration with HBANC proved invaluable in at least three respects. First, their executives and staff coordinated meetings with member firms having extensive and sophisticated understanding of regulatory processes throughout the Bay Area and its subregions. Our interviews with representatives of these firms provided much-needed perspective as we weighed options for constructing our survey instrument. Second, HBANC's staff and membership were able to provide key insights in reviewing initial

drafts of the instrument and honing its capture of particular facets of entitlement-risk and builder choice.¹² For example, these initial conversations elucidated the need to control for such features as the inherently controversial (versus garden-variety) nature of proposed developments and the varying number of formal regulatory-review processes administered by the host jurisdiction. Lastly, HBANC provided a list of respondents and helped administer the survey under our collaborative auspices, thus lending a sense of priority and urgency to our request that respondents complete the survey in a timely fashion.

Our final survey instrument for Bay Area builders is attached to this report as an exhibit. The on-line form asked respondents to provide descriptive detail on up to five completed projects. As to each recent project, the following information is elicited:

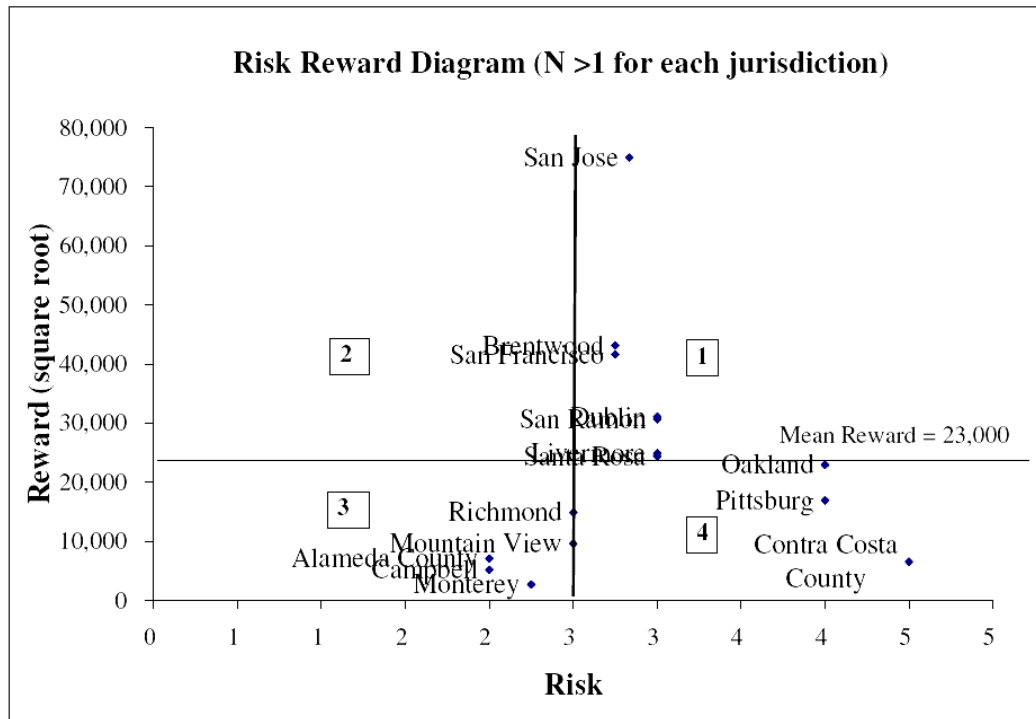
- Building type (e.g., single-family, condominium, mixed-use)
- Number of residential units
- Jurisdiction (city or unincorporated county area)
- Project-based risk (e.g., "standard," "mildly controversial," or "pushing the envelope")
- Perceived entitlement risk at onset (1 to 5 scale)
- Type and number of regulatory reviews and other tests of entitlement (e.g., general plan amendment, EIR, affordable housing requirement, litigation)
- Overall entitlement-review time
- Overall entitlement-review cost
- Accuracy of *ex ante* time estimate for all completed reviews

The instrument in its final form represents the culmination of our evolving views on how best to capture builder perceptions of land-use regulation. Along with the focus-group concept already described, the following options for data collection were also explored and ultimately rejected in favor of the fielded survey instrument:

¹² In some respects our survey approach was modeled (rather loosely) upon the work of Worzala, Sirmans, and Zietz (2000).

- Questions based on a series of prototype projects hypothetically located in various cities, meant to elicit varying reactions given their regulatory implications
- Blank maps with requests to differentiate among regulatory "stop," "proceed with caution," and "go" conditions, by having respondents color the maps with the appropriate traffic-light shades
- A "project-transfer" approach, asking respondents to predict varying outcomes based upon conditions before and after hypothetical relocation of a fully specified project between relatively restrictive and relatively liberal regulatory environments

Though results are preliminary in what amounted to a pilot test of the entitlement-risk survey, jurisdictions such as Contra Costa County, Pleasanton and Fairfield appear at first blush to generate relatively higher levels of such risk, in comparison to places like San Pablo, San Ramon, and Santa Rosa. In what might be seen as a risk-reward continuum, benefits of successfully navigating the regulatory process stand in sharp contrast with the cost and delay involved. These contrasts can be drawn in a scatterplot of locations graded by respondent builders along the risk and reward dimensions. Specifically, Brentwood, San Francisco and San Jose are relatively high risk jurisdictions with high reward, while Campbell and Richmond are comparatively low risk, low reward jurisdiction.



It is important to acknowledge certain limitations to even these descriptive findings. Our survey made no attempt to identify in any exhaustive fashion all of the locally identifiable features beyond land-use regulation which can strongly influence business outcomes in real estate. While the locality is the arbiter of the approvals process, each project has unique characteristics varying by location and not necessarily endogenous to specific local-government activity. These include the organization of political opposition to the project, prevailing architectural aesthetics and neighborhood values, perceived external effects on congestion and other quality-of-life elements, and even endangered-species impacts.

Any one of these factors lying outside the technical ambit of building-permit reviews can drastically increase cost or bring about outright cancellation of a proposed development. Additionally, a comprehensive model would be needed to account for variation in land and housing prices across locations and time, as well as psychological

factors influencing the gravity of risk perceived by developers (e.g., depth of experience, relative level of individual and firm-wide financial well-being, and subjective factors related to risk aversion/inclination). Against this complex tableau of influences, teasing out land-use aspects of entitlement-risk determination remains an onerous challenge, one we will continue to grapple with in the next phase of this project.

**IX. Measuring Entitlement Risk (B):
2007 Survey of Bay Area Environmental Consultants**

As already related in one of our vignettes, we learned early on that developers mete out various entitlement functions to attorneys and consultants. We were particularly impressed with the opportunity presented by the reported prevalence of "CEQA consultants," namely, those professionals providing project-based services to builders on the preparation of initial studies, negative declarations, mitigated negative declarations, and full EIRs. It appeared somewhat likely that a small cadre of such consultants – mostly planners, environmental scientists, and civil engineers by training – might possess synoptic views of how land-use practices vary across jurisdictions throughout the Bay Area.

To reproduce the requisite collaboration we enjoyed for the builder survey via HBANC, we set about locating professional organizations of such CEQA consultants. Our research into the matter revealed the existence of a statewide Association of Environmental Professionals (AEP), which has numerous regional chapters throughout the state. Eventually we met with and secured the collaboration of the leadership of AEP's San Francisco Bay Area Chapter (AEP-SFBAC). AEP-SFBAC was quite helpful in providing the identical kinds of assistance HBANC had with the builder survey. Most importantly, they vetted our draft survey instrument, provided a full list of respondent

contacts, and helped administer the survey with a series of "please complete the UC Berkeley survey" emails.

We had first anticipated that environmental professionals would be able to testify to the same set of project characteristics and regulatory perceptions asked in the items comprising the builder survey. However, a number of important complications emerged. First, since CEQA consultants are essentially regulatory professionals, we found that they were even more inclined to zealously guard specialized knowledge of various jurisdictions as a form of proprietary trade-secret. Secondly, the vantage of environmental professionals seeks to balance the economic benefits of proposed development against the public interest in protection of open space and natural resources. This mindset extends to analysis of whatever mitigation a developer might offer, to reduce overall environmental impacts. Third, AEP's membership works for clients and employers in both the developer and regulator sectors. For every EIR a developer's team prepares, there must be a similarly trained public-sector consultant (or employee) to evaluate the document's merits. For obvious reasons, we made efforts to limit the field of respondents to those AEP-SFBAC members working exclusively on the private side.

The CEQA-consultant survey proceeded on the basis of their recent experience with up to five residential projects. The areas of inquiry for the CEQA-consultant survey track those of the builder survey rather closely. However, because of divergences of role and perspective, we modified that survey for this application in the following respects:

- *Nature of work.* An item was added to allow respondents to identify what documentation they produced on each project they elected to describe (EIR, negative declaration/mitigated negative declaration, petition for exemption, and initial study).
- *Network advantages.* A new item asked respondents to specify whether the city or county was a place where prior experience and exposure may assist

with the outcome, politically or otherwise (with opinion options ranging from such experience making someone "quite advantaged" to "not significantly advantaged").

- *Environmental hurdles.* In the survey item enumerating layers of regulatory review, several response-options were added to reflect the environmental nature of respondents' practice areas.
- *Reasonableness and transparency.* Unlike the median builder, we expected many environmental consultants to be capable of assessing how well a jurisdiction's review processes balance public and private interests relative to other places. We included an item on the CEQA-consultant instrument asking for an overall opinion on regulatory reasonableness and transparency.
- *Extent of delay and mitigation.* For similar reasons, the CEQA-based survey also added items asking for general assessment of the extent of delay and environmental mitigation demanded.

X. 2007 Survey of Bay Area Land-Use Regulators¹³

We also initiated a new survey of planning and building department officials in the nine metropolitan Bay Area Counties. Our intent was to develop a dataset describing local land officials' current practices and perceptions. This resource would be necessary to identify changes over our nearly twenty-year coverage of land-use regulation and growth control in existing survey reports.

Our 2007 survey instrument was based largely upon one recently utilized by colleagues at the Wharton School's Zell/Lurie Real Estate Center ("Zell/Lurie survey"). Generated from work by Linneman and Summers in the early 1990s (Linneman et al., 1990), the recent Zell/Lurie survey updated the prior instrument. It was fielded nationally and in select metropolitan areas (Gyourko, Saiz, and Summers, forthcoming). We were invited to adapt that instrument for use in the Bay Area, and this invitation coincided nicely with our work on the current project.

¹³ This section draws upon the observations and analysis of our research assistant on these aspects of the project, Corie Calfee.

One key challenge was to ensure the instrument reflected California land-use law and procedures. We sought to add sufficient detail to adequately depict the state's complicated and idiosyncratic practices, while maintaining the brevity and economy of the Zell/Lurie team's survey. Peculiarities requiring adjustment for the local regulatory environment include the following: the California Environmental Quality Act (CEQA), which requires environmental review for most development projects and stands as a major factor in social local choice over what to build and where (California Public Resources Code, §§21000 et seq.); the state's Subdivision Map Act (California Government Code, §§66473 et seq.); regional trends toward mixed-use development; prevalent utilization of ballot-box democracy via voter-based initiatives and referenda; and the state's high regional growth-rates and constrained land supplies. Specific survey items were adapted for these factors, including:

- Questions specifying recent development experience, to identify localities with relatively active regulatory practice and permit review
- Questions identifying government and community actors participating in review processes
- Questions clarifying treatment of minimum lot-size, subdivision regulation, inclusionary zoning, open-space reservations, infrastructure improvements and phasing, in-lieu fees, and other topics
- Questions adding detail to respondents' perceptions of land supply and demand across residential and other development categories

The Zell/Lurie survey and our adaptation of that instrument for the 2007 Bay Area sample are attached as exhibits to this report, along the precursor 1990 Wharton survey instrument.

We found informative the observations of some respondents, describing their resistance to completing the short 2007 survey form. Here are some representative

examples from some of the emails we received and from comments provided by respondents on the survey form itself. Each paragraph below is a different individual's comment.

"I attempted to fill out your survey, but I found both the questions and answers to be an attempt to oversimplify the issues. I do not want to provide responses that will be misinterpreted and misused."

"[L]and and project costs are quite complex, variable, and dependent on many factors; it is not possible to provide a valid answer in this format. The questions dealing with 'duration of review,' providing an 'average' review time, and stating the time change for review over the past ten years are arbitrary given the vast time differences that it takes to review different types of projects; coming up with an 'average' would be meaningless and obscure the fact that some projects are processed very quickly and others take a long time ... to me it's simplistic to reduce many of these issues to a multiple choice survey format."

"Some of the questions make no sense, as they lump zoning changes (legislative acts) in with conditional use permits and variances (quasi-judicial acts). We don't have the resources to do this research for you."

"Question 10 about minimum lot size doesn't make much sense to me. Every jurisdiction I know of has minimum lot sizes, but they vary considerably depending on the zoning for the property in question. Most cities are going to have various minimum lot sizes less than a half acre in any case. I can't tell what this question is getting at. Question 12 asks about 'open space' but I wonder if you really mean parks. A lot of jurisdictions have park dedication requirements (including in lieu fees), but that's different from open space."

"I did the survey and found it to be fundamentally flawed in its understanding of basic regulations and to be virtually inapplicable to an infill jurisdiction such as [ours]"

Several smaller towns reportedly lack sufficient personnel to respond in a timely fashion to the numerous substantive surveys they receive. Others frequently revisit their land-use planning and regulations, despite the fact they have permitted very little new residential development in the recent past. These concerns aside, we achieved a survey response rate of nearly 80%.

The survey was sent to named individuals identified as building and planning department officials in 109 jurisdictions by the Association of Bay Area Governments (ABAG) headquartered in Oakland. The field of distribution is described below in an exhibit table. Some care was taken in developing the distribution list, given that some jurisdictions have fully staffed planning departments while others conduct planning and permitting business essentially through their community development departments. Based upon suggestions by colleagues at ABAG, these two mailing lists were merged and a single, named respondent (typically a director of planning or a director of community development) was selected for each jurisdiction. Email addresses were collected and supplemented via telephone inquiry to facilitate survey follow-up encouraging a high response rate. In most cases we obtained personal email addresses for the targeted individuals in each locality.

Fielding the instrument involved a preliminary "save the date" email alerting recipients to expect the survey. We utilized that first email to correct inaccurate email addresses and communicated with respondents to identify the locality's preferred staff member for completing the survey. The email releasing the survey provided access to the instrument via attachment and embedded link to the on-line survey site. Most respondents opted to complete with survey on-line; faxed responses were entered by hand into the on-line database. Repeated emails and telephone calls were utilized for respondents slow to submit their completed survey forms.

The results from this survey, as well as other data collection described above, are presented in the accompanying research paper.

San Francisco Bay Area Jurisdictions

Counties exercise land-authority over unincorporated areas outside cities. All localities are cities except whether otherwise noted. San Francisco is a coterminous city and county.

City and County of San Francisco	Fairfax	Pittsburg
Alameda County	Fairfield	Pleasant Hill
Contra Costa County	Foster City	Pleasanton
Marin County	Fremont	Portola Valley
Napa County	Gilroy	Redwood City
San Mateo County	Half Moon Bay	Richmond
Santa Clara County	Hayward	Rio Vista
Solano County	Healdsburg	Rohnert Park
Sonoma County	Hercules	Ross
Alameda	Hillsborough	San Anselmo
Albany	Lafayette	San Bruno
American Canyon	Larkspur	San Carlos
Antioch	Livermore	San Jose
Atherton	Los Altos	San Leandro
Belmont	Los Altos Hills	San Mateo
Belvedere	Los Gatos	San Pablo
Benicia	Martinez	San Rafael
Berkeley	Menlo Park	San Ramon
Brentwood	Mill Valley	Santa Clara
Brisbane	Millbrae	Santa Rosa
Burlingame	Milpitas	Saratoga
Calistoga	Monte Sereno	Sausalito
Campbell	Moraga	Sebastopol
Clayton	Morgan Hill	Sonoma
Cloverdale	Mountain View	South San Francisco
Colma	Napa	St. Helena
Concord	Newark	Suisun City
Corte Madera	Novato	Sunnyvale
Cotati	Oakland	Tiburon
Cupertino	Oakley	Union City
Daly City	Orinda	Vacaville
Danville	Pacifica	Vallejo
Dixon	Palo Alto	Walnut Creek
Dublin	Petaluma	Windsor
East Palo Alto	Piedmont	Woodside
El Cerrito	Pinole	Yountville
Emeryville		

XI. Concluding Remarks

Our effort to reconcile varying perspectives on land-use regulation and its effects on housing cost proceeded from constructive impulses. Not only did we aim to update a number of earlier surveys of regulators, but we found a feasible and perhaps efficient way of identifying impacts in the supply markets, at the incidence of these local controls on land availability and utilization. The triangulation approach, wherein we merged and harmonized a panoply of data sources (new and old), facilitates the analysis of regulatory transactions in as yet untried ways. We are guardedly optimistic that these techniques can be extended toward further research outputs for the Bay Area and eventually other metropolitan areas as well.

The reconciliatory method is not without its own challenges, however. Builders, consultants and regulators do not necessarily occupy the same mindsets and social spheres. In the broadest sense they are all governed by common rules and procedures, but how they value the private and social returns from their efforts and investments diverge markedly. Interestingly, as our work in the accompanying research paper indicates, indicators of regulation and its impacts vary substantially over space and time and likely suffer from fundamental sources of measurement bias and error. Adding dimension to what is already a greatly random set of social processes will at first only add complexity and heighten the challenge to derive robust estimates of our regulatory models.

Prior to the current effort, we had engaged in extensive discussions with colleagues about the need to survey builders as a way to gain new information on regulatory barriers to affordable housing development. Having now embarked on a

multifaceted effort to bring that regulated industry into the conceptual core of the enterprise, we have a greater appreciation for how much builders' attitudes and experiences can add, and how challenging it is to reconcile multiple views of complex social processes. We continue to believe that builder experience can help us expand the confidence interval in our estimates of land-use restrictiveness and hospitality. The next phase of our work will be to ascertain what regulatory features most forcefully influence not only the risk frontiers of developers but also the balance of consumer cost and amenity in the regulated marketplace.

References

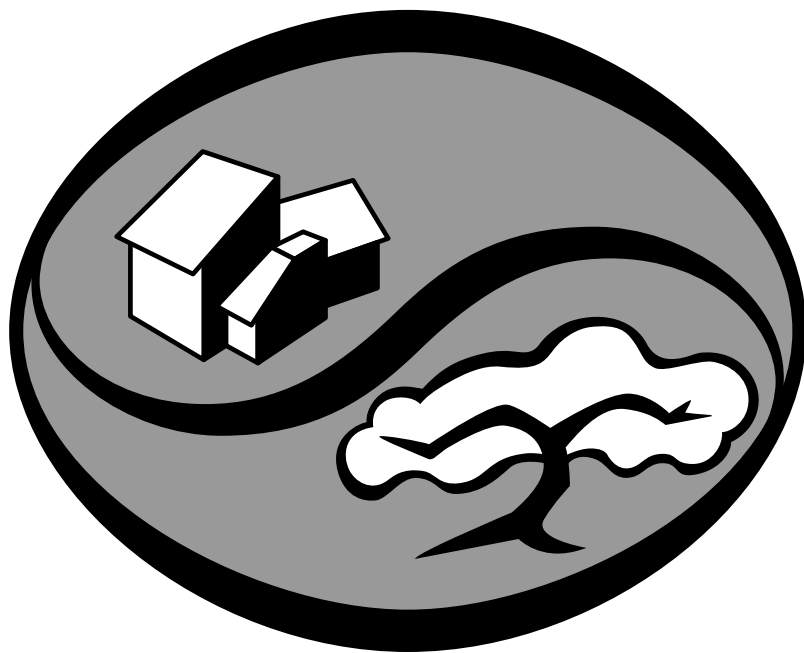
- Barbour, Elisa and Michael Teitz. 2005. "CEQA Reform: Issues and Options." San Francisco: Public Policy Institute of California (Occasional Papers series).
- Been, Vicki. 2005. "Impact Fees and Housing Affordability." *Cityscape* 8(1):139-185.
- Burns, Nancy. 1994. *The Formation Of American Local Governments: Private Values In Public Institutions*. New York: Oxford University Press.
- Cityscape (various authors). 2005. "Regulatory Barriers to Affordable Housing" (special issue). *Cityscape* 8(1).
- Crawford, I.M. 1997. *Marketing Research and Information Systems*. Rome: Food and Agriculture Organization of the U.N.
- Downs, Anthony. 1991. "The Advisory Commission on Regulatory Barriers to Affordable Housing: Its Behavior and Accomplishments." *Housing Policy Debate* 2(4):1095-1137.
- Glickfeld, Madelyn and Ned Levine. 1992. "Regional Growth ... Local Reaction: The Enactment and Effects of Local Growth Control and Management Measures in California." Cambridge: Lincoln Institute of Land Policy.
- Green, Richard K., Stephen Malpezzi, and Stephen K. Mayo. 2005. "Metropolitan-Specific Estimates of the Price Elasticity of Supply of Housing, and Their Sources." *American Economic Review* 95(2):334-339 (May).
- Gyourko, Joseph, Albert Saiz, and Anita A. Summers. Forthcoming. "A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index", *Urban Studies*.
- Hamilton, Bruce W. 1978. "Zoning and the Exercise of Monopoly Power." *Journal of Urban Economics* 5:116-30 (January).
- Heckathorn, Douglas D. and Steven M. Maser. 1987. "Bargaining and the Sources of Transaction Costs: The Case of Government Regulation." *Journal of Law, Economics, & Organization* 3(1):69-98 (Spring).
- Landis, John et al. 2000. "Raising the Roof: California Housing Development Projections and Constraints, 1997-2020." Sacramento: California Department of Housing and Community Development. California Department of Housing and Community Development, Statewide Housing Plan Update
- Landis, John et al. 2001. *Pay to Play: Residential Development Fees in California Cities and Counties 1999*. Sacramento: State of California Department of Housing and Community Development.
- Levine, Ned. 1999. "The Effects of Local Growth Controls on Regional Housing Production and Population Redistribution in California." *Urban Studies* 36(12):2047-2068.
- Linneman, Peter, et al. 1990. "The State of Local Growth Management." Real Estate Working Paper no. 81. The Wharton School, University of Pennsylvania.

- Longtin, James. 2007 (update). *Longtin's California Land Use* (2 vols.). Walnut Creek, CA: Local Government Publications.
- Malpezzi, Stephen. 1996. "Housing Prices, Externalities, and Regulation in U.S. Metropolitan Areas." *Journal of Housing Research* 7(2):209-242.
- Malpezzi, Stephen, Gregory H. Chun, and Richard K. Green. 1998. "New Place-to-Place Housing Price Indexes for U.S. Metropolitan Areas, and Their Determinants: An Application of Urban Indicators." *Real Estate Economics* 26(2):235-74.
- Mayer, Christopher J., and C. Tsurriel Somerville. 2000. "Land Use Regulation and New Construction." *Regional Science and Urban Economics* 30:639-662.
- Musil, Thomas A. 2006. "Critical Issues in Corporate Real Estate: Developing a Better Understanding of Public Sector Project Impact Analysis Practices." *Journal of Corporate Real Estate*, 8(3):151-162.
- Pendall, Rolf. 2000. "Local Land Use Regulation and the Chain of Exclusion." *Journal of the American Planning Association* 66(2):125-142 (Spring).
- Pendall, Rolf, Robert Puentes, and Jonathan Martin. 2006. "From Traditional to Reformed: A Review of the Land Use Regulations in the Nation's 50 Largest Metropolitan Areas." Washington, DC: Brookings Institution (research brief) (August).
- Pogodzinski, J.M. 1991. "The Effects of Fiscal and Exclusionary Zoning on Household Location: A Critical Review." *Journal of Housing Research* 2(2):145-160.
- Quigley, John M. 2007. "Regulation and Property Values in the United States: The High Cost of Monopoly," in Ingram, Gregory K. and Yu-Hung Hong, eds., *Land Policies and Their Outcomes* (Cambridge, MA: Lincoln Institute of Land Policy), pp. 46-66.
- Quigley, John M. and Steven Raphael. 2005. "Regulation and the High Cost of Housing in California." *American Economic Review*, 95(2):323-328.
- Quigley, John M. and Larry A. Rosenthal. 2005. "The Effects of Land-Use Regulation on the Price of Housing: What Do We Know? What Can We Learn?" *Cityscape* 8(1):69-138 (2005)
- Quigley, John M. and Larry A. Rosenthal. 2004. "Design and Implementation of a National Database on Regulatory Barriers to Affordable Housing Development." Paper presented to Regulatory Barriers Database Working Group, U.S. Department of Housing and Urban Development, Silver Spring, MD, November 19, 2004.
- Rosenthal, Larry A. 2000. *Long Division: California's Land Use Reform Policy and the Pursuit of Residential Integration*. PhD thesis, Goldman School of Public Policy, University of California, Berkeley, 2000.
- Rosenthal, Larry A. 2007. "National Regulatory Barriers Database, Prospects And Challenges: Where To From Here?" Paper presented at "National Regulatory Barriers Database Initiative: The Next Steps" meeting, US HUD/PD&R, Washington, DC, June 15, 2007.
- Rusk, David T. 2003. *Cities Without Suburbs*, 3d ed. Washington, DC: Woodrow Wilson Center Press.

- Schill, Michael. 2005. "Regulations and Housing Development: What We Know." *Cityscape* 8(1):5-19.
- Thorson, James A. 1996. "An Examination of the Monopoly Zoning Hypothesis." *Land Economics*, 72(1):43-55 (February).
- Tiebout, Charles M. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* 64:416-424 (October).
- Worzala, Elaine, G. Stacy Sirmans and Emily N. Zietz. 2000. "Risk and Return Perceptions of Institutional Investors." *Journal Real Estate Portfolio Management* 6(2):153-166 (April-June).
- Wright, Joseph C. 2007. "Regulatory Hurdles to Residential Real Estate Development: Entitlement Risk in the San Francisco Bay Area." Berkeley, CA: Goldman School of Public Policy, unpublished Masters Advanced Policy Analysis project.

Appendix 1

Longtin's California Land-Use Procedures and Timelines



**Longtin's
LAND USE
PROCEDURES
& TIMELINES**

ABOUT THE AUTHOR

James Longtin has been a land use lawyer for over 40 years. During his public practice he was city attorney for Lompoc, Santa Maria, Thousand Oaks and La Quinta. His private practice included representation of all sides to land use litigation, including landowners and developers, environmental and preservationist groups, and public agencies.

Mr. Longtin is the author of *Longtin's California Land Use*, a comprehensive two-volume set of law and practice books. Mr. Longtin discontinued active law practice in 1996. However, he continues to study land use and to update *Longtin's Cal Land Use* annually.

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LAND USE PROCEDURES AND TIMELINES

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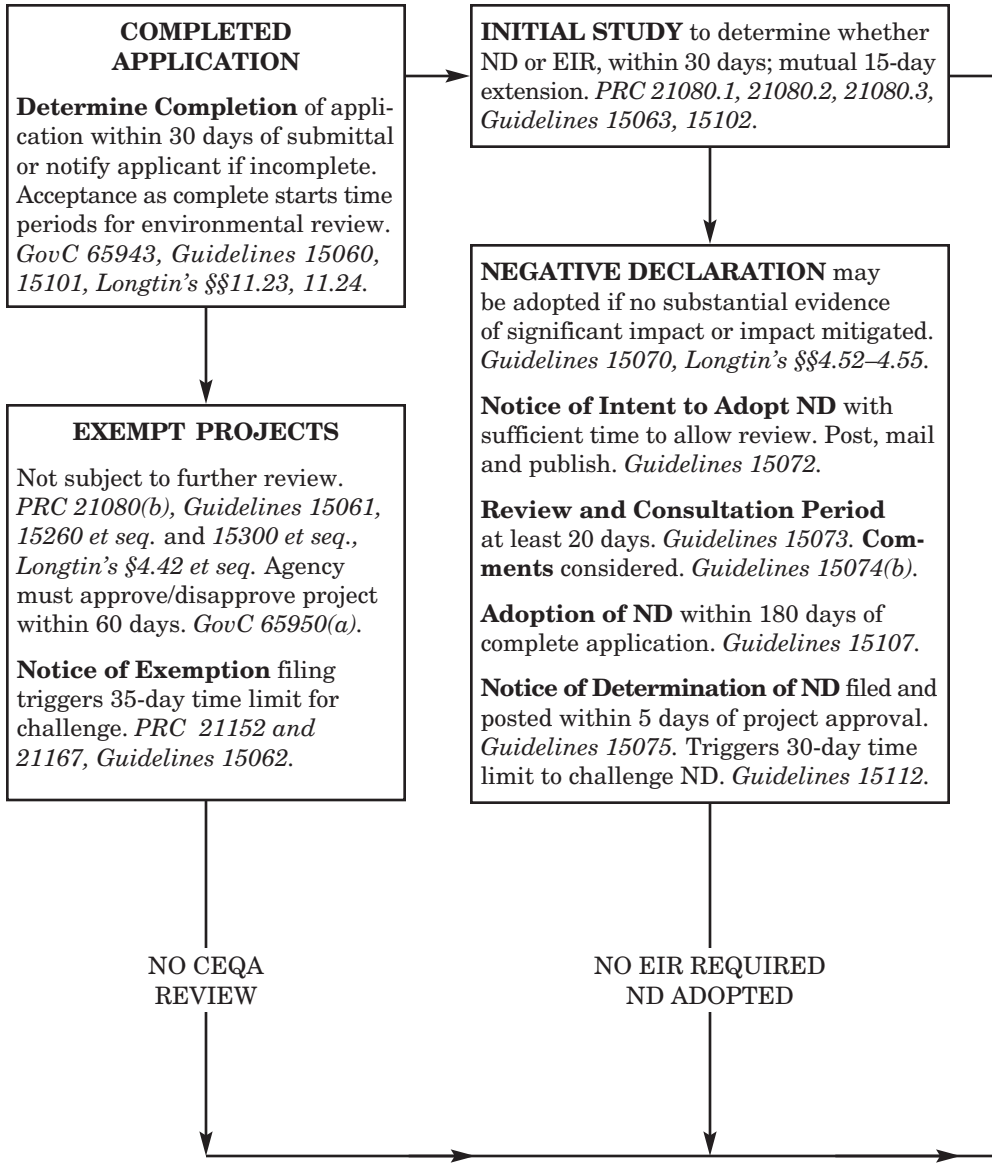
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ABBREVIATIONS

CCP	Code of Civil Procedure	Longtin's . . .	Longtin's California
CEQA	California Environmental Quality Act		Land Use, legal text
EIR	Environmental Impact Report	ND	Negative Declaration
GovC	Government Code	PRC	Public Resources Code
Guidelines. .	CEQA Guidelines /	PSA	Permit Streamlining Act
	14 Cal. Code of Regulations	SMA.	Subdivision Map Act

FLOW CHART AND TIME-



ENVIRONMENTAL IMPACT REPORT

EIR Required when project may have significant impact. *Longtin's §4.52.*

Notice of Preparation sent to other agencies for scope and content response within 30 days. *Guidelines 15082 and 15103.*

Draft EIR prepared by agency. *Guidelines 15084.* For content, see *Longtin's §4.62.*

Notice of Completion filed with specified agencies. *Guidelines 15085.*

Notice of Availability. Post, mail and publish. *Guidelines 15087.*

Public Review/Agency Consultation for minimum 30 days. *Guidelines 15087, 15105.*

Comments and Responses in final EIR. *Guidelines 15088 and 15132.*

Findings/Overriding Consideration
Statement for approvals with significant effect. *Guidelines 15091, 15093.*

Final EIR Certification within 1 year of completed application. 90-day extension. *Guidelines 15108.*

Notice of Determination filed and posted within 5 days. *Guidelines 15094.* Triggers 30-day limit for CEQA challenge. *Guidelines 15112.*

PROJECT DECISION

If EIR Certified, agency must approve or deny within 180 days (90 days if low-income housing) *GovC 65950.* Less for subdivision maps *GovC 65952.1.* *Guidelines 15111.* Project deemed approved if no action within time limits. *GovC 65956.*

PROJECT DECISION

If Project Exempt or ND Adopted, agency must approve/disapprove within 60 days. *GovC 65950.* Deemed approved if no action within time limits. *GovC 65956.*

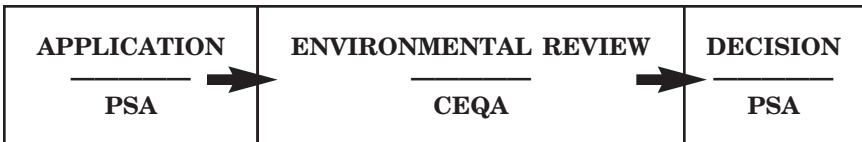
LAND USE PROCEDURES AND TIMELINES

Introduction and Scope. Most every land use project requires both application and decision pursuant to the Permit Streamlining Act (PSA) and environmental review under the California Environmental Quality Act (CEQA). Also, notice and hearing requirements are established by other laws. This procedural intersection can be complex and confusing.

This booklet contains a digest of the requirements and timelines for notice, review, decision and legal challenge for land use projects in California. It includes a flow chart, diagram and explanatory text, with liberal reference to authoritative sources. Although not comprehensive because of size limitations, the booklet covers areas most useful for most permit activities.

PROJECT APPLICATION AND REVIEW PERMIT STREAMLINING ACT (PSA)

PSA Meets CEQA: The Permit Streamlining Act (PSA) (*GovC §§65920 et seq./Longtin’s §§11.22–11.27*) requires agencies to follow standardized procedures and strict time deadlines for application, review and approval of development projects. The PSA and CEQA work together like on/off lights. When application submitted, PSA turns on; when application completed, PSA turns off and CEQA turns on for environmental review; then CEQA turns off when review complete and PSA turns on again through project decision.



Applicability: PSA applies to “development projects,” which include all adjudicatory approvals such as subdivision maps and most discretionary development permits. It does not apply to ministerial actions such as building permits, lot line adjustments, and certificates of compliance. Nor does it apply to legislative actions, such as general plan or zoning changes. *Longtin’s §11.22.*

Project Application: Agency specifies information required from applicant for development project. *GovC §§65940, 65941*. Upon receipt of application, agency has 30 days to determine and notify applicant whether application is complete for processing. If incomplete, resubmittal starts new 30-day review period. If agency fails to notify applicant of completion status within 30-day period, application is deemed complete. A completed application starts clock for agency review and decision. *GovC §65943, Longtin's §11.24*.

CEQA Review: Once application is complete, agency proceeds with CEQA process, making determinations on exemptions, negative declaration, or EIR certification, all within specified time periods. See CEQA, p. 6.

Project Decision: Following CEQA review and determination, PSA again becomes active, with strict time limits for project decision. After EIR certified, agency must approve or deny project within 180 days from date of certification. If low-income housing project, time shortened to 90 days. If project exempt from CEQA or if negative declaration adopted, agency must approve or deny within 60 days from determination. *GovC §65950*.

Subdivision Approvals: Time limits for approval of tentative subdivision maps (50 days for advisory agency/40+ days for appeal) may be shorter and must be followed (*Gov §§65952.1, 66452.1, 66452.2, 66452.5*). For CEQA reconciliation with short time limits for approval, see *Guidelines §15111*.

Deemed Approved: If no action is taken on project within specified time limits, project is deemed approved, but only if requirements for public notice and review are satisfied. Options available to applicant to ensure notice compliance. *GovC §65956(b), Longtin's §11.26*.

Time Extensions: PSA time limits for project decision may be extended once, by mutual agreement, not to exceed 90 days. *GovC §65957*. If there has been an extension under CEQA (see p. 10), to complete and certify an EIR, project must be decided within 90 days of certification. *GovC §65950.1*.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In General

CEQA (*PRC* §§21000 *et seq.*) is a procedural statute designed to inform decision makers and the public about potential environmental effects of proposed land use activities. A major challenge for practitioners is compliance with the various notice, consultation and review periods required by CEQA and its Guidelines. CEQA works together with the PSA by commencing its environmental review after project application is complete. After CEQA review, the PSA controls again through project decision.

Based upon the type of project and its potential for environmental impact, CEQA review may follow one of three courses: (a) exemption; (b) negative declaration (ND); or (c) environmental impact report (EIR).

Exempt Projects

CEQA and its Guidelines exempt many types of activities from its requirements. See *PRC* §§21080–21080.33, *Guidelines* §§15061, 15062, 15260 *et seq.*, 15300 *et seq.* and *Longtin's* §§4.42 *et seq.* If project exempt, agency must approve or disapprove within 60 days. *GovC* §65950(a). Upon approving exempt project, agency or applicant *may* file notice of exemption, which triggers 35-day statute to challenge exemption determination. If notice not filed, time to challenge is 180 days from project approval. *PRC* §§21152, 21167, *Guidelines* §§15062, 15112.

Initial Study

An initial study, including consultations with applicant and other agencies, determines whether to prepare an ND or EIR. *PRC* §§21080.1–21080.3, *Guidelines* §15063(g). Agency must decide within 30 days. May be extended 15 days by mutual consent. *PRC* §21080.2. See *Guidelines* §§15063, 15102.

Negative Declaration (ND)

ND may be adopted when no substantial evidence that project may have significant effect. For projects where significant effect

identified, but mitigation measures reduce effect to insignificant, mitigated ND may be adopted. *PRC §21080(c), Guidelines §15070, Longtin's §§4.52–4.55.*

Content: For minimum required, see *Guidelines §15071.*

Notice of Intent to Adopt ND must be posted for 20/30 days and mailed to specified agencies and persons. *PRC §§21092, 21092.3, Guidelines §15072.*

Review and Consultation Period, for agencies and public, at least 20 days. Review period extended when ND sent to state clearinghouse. *PRC §§21091, 21092.4, Guidelines §§15073, 15206.*

Comments received during review period must be considered. *PRC §21091(d), Guidelines §15074(b).* Unlike EIR, comments not required to be attached to ND nor must lead agency respond.

Revised ND requires recirculation. *Guidelines §15073.5.*

Mitigation Measures: Where potential effects identified, but revisions in project reduce effect to insignificant, ND may be used. *Guidelines §15070(b).* Substitution of mitigation measures, prior to project approval, requires hearing and findings of equivalency. *PRC §21080(f), Guidelines §15074.1.*

Completion/Adoption of ND required within 180 days from completion of application. *PRC §21151.5, Guidelines §15107.*

Notice of Determination to be filed within five days of project approval and posted 30 days. *PRC §21152, Guidelines §15075.*

Statute of Limitations to challenge ND decision is 30 days if notice filed and posted, otherwise 180 days from project approval. *PRC §21167, Guidelines §15112.*

Environmental Impact Report (EIR)

EIR must be prepared when evidence supports “fair argument” that project may have significant effect on environment. See *Longtin's §4.52.* For criteria to determine significant effect, see *Guidelines §§15064, 15065.*

Notice of Preparation. Scoping: NOP to be sent to responsible and trustee agencies immediately. Agencies to specify scope and

content of information related to area of responsibility within 30 days. Scoping meeting if requested. *PRC §21080.4, Guidelines §§15082, 15103.*

Early Consultation: Early public consultation encouraged. *Guidelines §15083.* Consultation with water agencies required for specified large projects. Agencies to provide water supply adequacy assessment within 30 days of NOP. *Guidelines §15083.5.*

Draft EIR to be prepared by, or under contract to, agency. *Guidelines §15084.* For content of EIR, see *PRC §21100, Guidelines §§15120 et seq., Longtin's §4.62.*

Notice of Completion to be filed with OPR and state clearinghouse, if required, when draft EIR complete. *PRC §21161, Guidelines §15085.*

Notice of Availability. Public Review and Agency Consultation: NOA sent to affected agencies and requesting individuals. Post and mail to contiguous owners. *PRC §§21092, 21092.3, Guidelines §15087.* Lead agency to consult with affected agencies and request comments. *PRC §21092.4, Guidelines §15086.* Minimum consultation and public review period for draft EIR is 30 days, 45 days when submitted to state clearinghouse. *PRC §§21091, 21092, Guidelines §15105.*

Comments and Responses required in final EIR prior to certification. *PRC §21092.5, Guidelines §§15088, 15132.*

Final EIR. Certification prior to project approval and within one year from complete application, unless extended 90 days by mutual consent. *PRC §21151.5, Guidelines §15108.*

Findings and Statement of Overriding Consideration needed for approvals with remaining unmitigated significant effects. *Guidelines §§15091, 15093.*

Notice of Determination. Statute of Limitations: Agency may file and post notice within five days of approval. *PRC §21152, Guidelines §15094.* Notice triggers 30-day statute for CEQA challenge. *Guidelines §15112(c)(1).* If notice not filed, time extended to 180 days. *PRC §21167, Guidelines §15112(c)(5).*

NOTICE AND HEARING PROCEDURES

Due Process (*Longtin's §11.30*)

The constitutional principle of procedural due process requires that landowners and other affected parties must be provided adequate notice and opportunity to be heard prior to any government action that may affect significant property rights. As a practical matter, compliance with required statutory land use procedures will normally ensure due process compliance.

Notice (*Longtin's §11.31*)

Public hearing notice requirements for land use projects are covered by *GovC §§65090 and 65091* (notice requirements for CEQA determinations are in CEQA section, above). Generally, projects requiring legislative approval (general/specific plan and zoning amendments) only require publication and posting. *GovC §65090*. Adjudicatory decisions (tentative maps, variances, use permits, and other discretionary development permits) require both publication/posting *and* specific mailing to applicant and affected property owners. *GovC §65091*. For chart of notice requirements for specific permits and activities, see pp. 12–13.

Content: Date, time and place of hearing, description of property, and explanation of matter to be considered. *GovC §65094*.

Publication/Posting: 10 days prior newspaper publication or posting in three public places. *GovC §65090*.

Mailing: 10 days prior mailed notice to applicant and property owners within 300 feet. *GovC §65091*.

Hearing (*Longtin's §11.32*)

Minimum Standards: Agencies must adopt procedural rules for conduct of zoning hearings. Staff report and record of hearing usually required. *GovC §65804*.

Hearing Agenda to be posted 72 hours prior to agency meeting. *GovC §54954.2, Longtin's §11.42*.

Opportunity to be Heard: Affected parties have right to meaningful hearing and to raise specific objections. *Longtin's*

§11.32[4]. For burden of proof, evidence and issues to be considered, see *Longtin's* §§11.32[3]–[12].

Decision-Making Process: For discussion of bias and fairness, conflicts of interest and voting, see *Longtin's* §§11.40–11.45.

Findings: Required for adjudicative action, but not required for legislative action. Many exceptions. *Longtin's* §§11.50 *et seq.* See Chart of Procedures for Specified Activities, pp. 12–13.

Appeals: See *Longtin's* §11.32[13].

TIME LIMITS. PROCEDURAL DEFECTS. LITIGATION

Time Limits. Extensions

For time limits on specified PSA and CEQA activities, see text (pp. 5–8) and chart of timelines, pp. 2–3. CEQA time limits are directory, not mandatory. *Longtin's* §4.86[3]. Time periods may be extended by mutual consent, within limits. *Guidelines* §15108. And may be suspended for applicant delay. *Guidelines* §15109. “Deemed approved” provisions of PSA and SMA are mandatory. See p. 5.

Effect of Procedural Defects

Defective procedures generally do not invalidate permit or action unless party complaining suffered substantial injury and result would have been different. CEQA notices valid if agency makes “good faith effort.” *GovC* §§65010, 65093, 65945.7. See *Longtin's* §§11.31[5], 11.32[15]. However, *cumulative* errors may violate due process. See *Longtin's* §11.32[15].

Deadlines for Legal Challenge

The statute of limitations for challenges to land use decisions is short. *Guidelines* §15112. For most CEQA determinations, 30 days (*PRC* §21167); for most planning, zoning and subdivision decisions, 90 days (*GovC* §§65009(c), 66499.37). Many time limitations run from date of decision to filing legal action and service of process (*GovC* §65009(c)). For list of limitation periods for specific land use permits/activities, see chart, pp. 12–13.

Expediting Litigation

Cases involving CEQA compliance issues are entitled to calendar preference and other expedited procedures to quickly resolve litigation. *PRC §21167.1*.

CHART OF PROCEDURES

PERMIT or ACTIVITY	TYPE	NOTICE/HEARING
	Determining type of action can determine due process applicability and standard of judicial review. See <i>Longtin's</i> §§11.10-11.13.	Public hearing notice requirements include publication/posting (<i>GovC 65090</i>) and mailing (<i>GovC 65091</i>). See p. 9.
General/Specific Plan Amendment	Legislative	Noticed hearing before planning commission and legislative body. <i>GovC 65353-65356, 65453.</i>
Zoning Amendment/Rezoning	Legislative	Noticed hearing before planning commission and legislative body. <i>GovC 65854-65857.</i>
Development Agreement	Legislative	Noticed hearing. <i>GovC 65867.</i>
Discretionary Permit, CUP/Variance	Adjudicative	Noticed hearing. <i>GovC 65905.</i> Due process.
Subdivision: Tentative Map, Parcel Map	Adjudicative	Noticed hearing. <i>GovC 66451.3.</i> Due process.
Final Map, Lot Line Adjustment, Certificate of Compliance	Ministerial	No hearing required
Permit Conditions and Fees	Legislative (adopting fee ordinance), adjudicative (imposing condition/fee on specific project)	Noticed hearing. <i>GovC 66016</i> (adopt fees); <i>65905</i> (permits); <i>66451.3</i> (subdivisions). Due process.
Building/Occupancy Permits	Ministerial	No hearing required
CEQA: Exemption Determination, ND Adoption, EIR Certification	Not necessary to determine	CEQA requires no public hearings. However, agencies are required to notice various determinations/decisions. See pp. 6–8.

FOR SPECIFIED ACTIVITIES

FINDINGS As general rule, findings required for adjudicative decisions; not required for legislative or ministerial decisions. <i>Longtin's</i> §11.51.	STATUTE of LIMITATIONS See p. 10 and <i>Longtin's</i> §12.34.	JUDICIAL REVIEW/ REMEDY Invalidation, mandate and damages are common remedies for land use litigation. Ancillary remedies include injunctions, declaratory relief, civil penalties and attorney fees. See <i>Longtin's</i> §§12.01–12.09A and 12.40.
Not required. Except general plan amendment limiting housing. <i>GovC</i> 65302.8.	90 days. <i>GovC</i> 65009, 65860(b).	<i>CCP</i> 1085 mandate review. If plan inadequate, compliance remedy. <i>GovC</i> 65750–65763. If inconsistency, invalidation remedy. <i>GovC</i> 65860(b).
Not required. Except zoning limiting housing <i>GovC</i> 65863.6; interim urgency ordinance <i>GovC</i> 65858; others <i>GovC</i> 65567.	90 days. <i>GovC</i> 65009, 65860(b). Except actions in support of affordable housing, 1 year. <i>GovC</i> 65009(d), (g).	<i>CCP</i> 1085 mandate review. Invalidation and damages remedies. <i>CCP</i> 1095, <i>GovC</i> 65860(b) (consistency).
General plan consistency. <i>GovC</i> 65867.5.	90 days. <i>GovC</i> 65009, 65860(b) (consistency).	<i>CCP</i> 1085 mandate review. <i>GovC</i> 65860(b) (consistency).
Topanga findings required. <i>Longtin's</i> §3.72[6].	90 days. <i>GovC</i> 65009.	<i>CCP</i> 1094.5 mandate. Invalidation, damages remedies. <i>CCP</i> 1095.
Map approval findings. <i>GovC</i> 66473.5 and 66474.	90 days. <i>GovC</i> 66499.37.	<i>CCP</i> 1094.5 mandate. Invalidation, damages remedies. <i>CCP</i> 1095.
Not required. Ministerial items.	90 days. <i>GovC</i> 66499.37.	<i>CCP</i> 1085 mandate. Invalidation, damages remedies. <i>CCP</i> 1095.
Findings required as part of Discretionary Permit or Subdivision approval. See above.	Fee adoption/increase. 120 days. <i>GovC</i> 66022. Fee imposition protest. 90 days. <i>GovC</i> 66020(d). Legal challenge. 180 days from protest. <i>GovC</i> 66020(d).	Challenge to fee adoption, <i>CCP</i> 860 validation. <i>GovC</i> 66022(b). Challenge to imposed fee, invalidation/refund. <i>GovC</i> 66020(d)–(f).
Findings not required	90 days. <i>CCP</i> 1094.6.	<i>CCP</i> 1085 mandate. Invalidation, damages remedies. <i>CCP</i> 1095.
Project approval despite significant effects. <i>Guidelines</i> 15091. Statement of overriding considerations. <i>Guidelines</i> 15093.	Exemption determination, 35 days. ND adoption or EIR certification, 30 days, unless notice not filed, then 180 days. See <i>Guidelines</i> 15112.	<i>CCP</i> 1085 or 1094.5 “abuse of discretion” standard. <i>PRC</i> 21168 and 21168.5. Invalidation and compliance remedies. <i>PRC</i> 21168.9, <i>CCP</i> 1095. See <i>Longtin's</i> §4.90.

Appendix 2

2007 Survey of Bay Area Builders
[excerpt for single-project description]

Entitlement Risk in California

Recent Project # 1

--- Provide information for a recently completed project.
--- Up to 5 different projects can be described using this survey.

1

Select the PRODUCT TYPE of a recently completed project:

- ☐ Single family homes
- ☐ Apartments
- ☐ Condominiums
- ☐ Mixed Use (Condos + Retail)
- ☐ Other, please specify

2

Number of units for recent project:

3

Select the JURISDICTION of the project:

4

For this PARTICULAR JURISDICTION, would you consider your project a:

- ☐ “Standard” project
- ☐ “Mildly controversial” project
- ☐ “Pushing the envelope” project

5

ENTITLEMENT RISK at the onset of the project was perceived as:

Very Low	Low	Medium	High	Very High
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

6

Select all that apply to your recent project:

- ☐ General Plan Amendment (GPA)

- ☐ Environmental Impact Report (EIR)
- ☐ Development Agreement
- ☐ Affordable housing required
- ☐ Legal action brought against the project
- ☐ Local referendum against the project
- ☐ Project canceled due to regulatory resistance
- ☐ Other, please specify

7

Estimate the TIME required for the entire entitlement process -- starting at filing date

8

Estimate the all-inclusive COST of the entire entitlement process -- total dollars

9

Rate the ACCURACY of your pro forma estimates for the entitlement process:

- ☐ Within 1 month

- ☐ Within 3 months
- ☐ Within 6 months
- ☐ Within 1 year
- ☐ Outside of 1 year
- ☐ Outside of 2 years



Survey Page 1

Entitlement Risk in California

Recent Project # 2

--- Provide information for a 2nd recently completed project.
--- Up to 5 different projects can be described using this survey.

- 10** Select the PRODUCT TYPE of another recently completed project:

Appendix 3

2007 Survey of Bay Area Environmental Consultants

CEQA and Entitlement Consulting for Residential Builders in California

--- Please provide information for a recently COMPLETED (BUILT) project
--- Please select only from projects on which you have served as CEQA consultant FOR THE DEVELOPER (not for a public authority)
--- You will be prompted for information on up to FIVE different projects

=====

RECENT PROJECT #1

=====

1

Select the PRODUCT TYPE of a recently completed project:

- ☐ Single family homes
- ☐ Apartments
- ☐ Condominiums
- ☐ Mixed Use (Condos + Retail)
- ☐ Other, please specify

2

Identify the CEQA-related documentation you and/or your firm completed for THIS PROJECT (please check all that apply):

- ☐ Environmental Impact Report (EIR)
- ☐ Negative Declaration/Mitigated Negative Declaration
- ☐ Petition for Exemption
- ☐ Initial Study
- ☐ Other, please specify

3

Number of units for THIS PROJECT:

4

Select the JURISDICTION of the project:
(scroll to bottom of list for county unincorporated areas)

5

In general, local regulators in this PARTICULAR JURISDICTION:

- ☐ Resist residential development
 - ☐ Allow selective residential development
 - ☐ Promote residential development
-

6

Consultants with work experience and/or political networks in this PARTICULAR JURISDICTION are:

- ☐ Quite advantaged
 - ☐ Somewhat advantaged
 - ☐ Not significantly advantaged
-

7

For this PARTICULAR JURISDICTION, would you consider your recent project a:

- ☐ “Standard” project
 - ☐ “Mildly controversial” project
 - ☐ “Pushing the envelope” project
-

8

ENTITLEMENT RISK at the onset of the project was perceived as:

Very Low	Low	Medium	High	Very High
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

9

Select the KEY DRIVER(s) of entitlement risk (check all that apply):

- ☐ NIMBY
- ☐ Environmental Impact Report (EIR)
- ☐ Environmental Impact Statement (EIS)
- ☐ Extensive state agency review, e.g. Water Board
- ☐ General Plan Amendment (GPA)
- ☐ Development Agreement
- ☐ Affordable housing requirements
- ☐ Legal action brought against the project
- ☐ Local referendum against the project
- ☐ Other, please specify

10 Overall, how REASONABLE was the entitlement process for this project?

- ☐ Unreasonable process
- ☐ Somewhat Unreasonable process
- ☐ Somewhat Reasonable process
- ☐ Reasonable process

11 Rate the TRANSPARENCY of the entitlement process for this project:

- ☐ Transparent
- ☐ Somewhat transparent
- ☐ Not very transparent
- ☐ Not at all transparent

12 Select the amount of unforeseen DELAYS OR COST OVERRUNS for the entitlement process:

- ☐ None

- ☐ Minor
 - ☐ Moderate
 - ☐ Significant
-

13 Rate the EXTENT OF ENVIRONMENTAL MITIGATION required of THIS PROJECT'S developer as a condition for approval:

- ☐ None
 - ☐ Minor
 - ☐ Moderate
 - ☐ Extensive
-

14 Estimate the TIME required for the entire entitlement process -- starting at filing date



15 Estimate the all-inclusive COST of your consulting services for this project:

16 Additional Comments:

17 Would you like to provide information on an
ADDITIONAL PROJECT?



Survey Page 1

CEQA and Entitlement Consulting for Residential Builders in California

--- Please provide information for ANOTHER recently
COMPLETED (BUILT) project
--- Please select only from projects on which you have
served as CEQA consultant FOR THE DEVELOPER (not
for a public authority)
--- You will be prompted for information on up to FIVE
different projects

=====

Appendix 4
2007 Survey of Bay Area Land-Use Officials

U.C. Berkeley Program on Housing and Urban Policy Survey on Land Use Practices

ALL ANSWERS WILL BE KEPT IN STRICTEST CONFIDENCE.

PLEASE ANSWER ALL QUESTIONS BELOW AS BEST YOU CAN, BASED UPON YOUR OWN KNOWLEDGE AND OPINION

1

JURISDICTION. What is the name of your jurisdiction? Please fill in the blank.

2

RECENT DEVELOPMENT. In the past ten years, has your jurisdiction added any of the following kinds of new development? Please check all that apply.

- ☐ Single-family residential
- ☐ -- 1 to 4 units
- ☐ -- 5 to 49 units
- ☐ -- 50 or more units
- ☐ Multifamily residential
- ☐ Retail
- ☐ Office

☐ Industrial

☐ Mixed use

3

WHO IS INVOLVED? How involved are the following players in affecting residential development in your jurisdiction? Please rate the involvement of all players listed.

1 Not involved	2	3 Involved	4	5 Very involved
----------------------	---	---------------	---	-----------------------

Local elected officials

<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5
-------------------------	-------------------------	-------------------------	-------------------------	-------------------------

Neighbors/community pressure

<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5
-------------------------	-------------------------	-------------------------	-------------------------	-------------------------

State legislature

<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5
-------------------------	-------------------------	-------------------------	-------------------------	-------------------------

Courts and litigation

<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5
-------------------------	-------------------------	-------------------------	-------------------------	-------------------------

Ballot measures

<input type="radio"/> 1	<input type="radio"/> 2	<input type="radio"/> 3	<input type="radio"/> 4	<input type="radio"/> 5
-------------------------	-------------------------	-------------------------	-------------------------	-------------------------

Organized labor

1

2

3

4

5

Planning/zoning staff

1

2

3

4

5

Environmental advocates

1

2

3

4

5

FACTORS AFFECTING RATE OF DEVELOPMENT.

4

SINGLE FAMILY. On a scale of 1 to 5, how important is each of the following factors in affecting the rate of single-family residential development in your jurisdiction? Please rate the importance of all factors listed.

1
Not
important

2

3
Important

4

5
Very
important

Supply of developable land

1

2

3

4

5

Density restrictions

1

2

3

4

5

Infrastructure requirements

1

2

3

4

5

Local fiscal conditions

1

2

3

4

5

Inclusionary housing ordinances

1

2

3

4

5

Parking requirements

1

2

3

4

5

School crowding

1

2

3

4

5

CEQA review

1

2

3

4

5

Density bonuses

1

2

3

4

5

Citizens' attitudes on growth

1

2

3

4

5

Elected officials' positions on growth

1

2

3

4

5

Mixed-use requirements

1

2

3

4

5

Impact fees/exactions

1

2

3

4

5

Duration of entitlement process

1

2

3

4

5

5

MULTIFAMILY. On a scale of 1 to 5, how important is each of the following factors in affecting the rate of multifamily residential development in your jurisdiction? Please rate the importance of all factors listed.

1
Not
important

2

3
Important

4

5
Very
important

Supply of developable land

1

2

3

4

5

Density restrictions

1

2

3

4

5

Infrastructure requirements

1

2

3

4

5

Local fiscal conditions

1

2

3

4

5

Inclusionary housing ordinances

1 2 3 4 5

Parking requirements

1 2 3 4 5

School crowding

1 2 3 4 5

CEQA review

1 2 3 4 5

Density bonuses

1 2 3 4 5

Citizens' attitudes on growth

1 2 3 4 5

Elected officials' positions on growth

1 2 3 4 5

Mixed-use requirements

1 2 3 4 5

Impact fees/exactions

1 2 3 4 5

Duration of entitlement process

1

2

3

4

5



Survey Page 1

U.C. Berkeley Program on Housing and Urban Policy Survey on Land Use Practices

ALL ANSWERS WILL BE KEPT IN STRICTEST CONFIDENCE.

PLEASE ANSWER ALL QUESTIONS BELOW AS BEST YOU CAN, BASED UPON YOUR OWN KNOWLEDGE AND OPINION

ZONING AND USE OF LAND.

6

ZONING. Does your jurisdiction have any land zoned for the following uses? Please check all that apply.

- ☐ Single-family residential
- ☐ Multifamily residential
- ☐ Retail
- ☐ Office
- ☐ Industrial

☐ Open space

7

ACTUAL USE. Does your jurisdiction have any land actually used for the following purposes? Please check all that apply.

☐ Single-family residential

☐ Multifamily residential

☐ Retail

☐ Office

☐ Industrial

☐ Open space

8

LAND SUPPLY AND DEMAND. On a scale of 1 to 5, how well does the amount of land zoned in your jurisdiction match market demand, for each land-use category below? Please reply for all categories listed.

1		3		5
Much less than demanded	2	Zoning meets demand	4	Much more than demanded

Single-family residential

1

2

3

4

5

Multifamily residential

1

2

3

4

5

Retail

1

2

3

4

5

Office

1

2

3

4

5

Industrial

1

2

3

4

5

Open Space

1

2

3

4

5



Survey Page 2

U.C. Berkeley Program on Housing and Urban Policy Survey on Land Use Practices

ALL ANSWERS WILL BE KEPT IN STRICTEST CONFIDENCE.

PLEASE ANSWER ALL QUESTIONS BELOW AS BEST YOU CAN, BASED UPON YOUR OWN KNOWLEDGE AND OPINION

ZONING APPROVALS/REVIEW.

9

NO ZONING CHANGE. Which of the following approvals and/or reviews is required for projects **NOT** needing a zoning change (e.g. a conditional use permit, variance, or other rezoning)? Please check all that apply.

- ☐ Planning Commission
- ☐ City Council (or Board of Supervisors for counties)
- ☐ Landmarks/Historical Commission
- ☐ Architectural/Design Review
- ☐ Building Department
- ☐ Fire Department
- ☐ Health Department
- ☐ Parking/Transportation
- ☐ CEQA Review
- ☐ Growth management analysis
- ☐ Other

10 ZONING CHANGE INVOLVED. Which of the following approvals and/or reviews is required for projects needing a zoning change (e.g. a conditional use permit, variance, or other rezoning)? Please check all that apply.

- ☐ Planning Commission
- ☐ City Council (or Board of Supervisors for counties)
- ☐ Zoning Adjustment Board
- ☐ Landmarks/Historical Commission
- ☐ Architectural/Design Review
- ☐ Building Department
- ☐ Fire Department
- ☐ Health Department
- ☐ Parking/Transportation
- ☐ CEQA Review
- ☐ Growth management analysis
- ☐ Other

DURATION OF REVIEW.

- 11** TIME IN GENERAL. How long does it take, in general, to complete all required regulatory review for residential projects?

Please enter an average time, from application being filed to building permit issued, in years and months for each project type.

1 to 4 single-family units	<input type="text"/>
5 to 49 single-family units	<input type="text"/>
50 or more single-family units	<input type="text"/>
Multi family residential	<input type="text"/>

- 12** TIME CHANGE. Over the past ten years, how has this average application-to-permit time for all required regulatory review changed for residential projects in general?

Please rate, on a scale of 1 to 5, how the timing has changed for each project type.

1 Much shorter	2	3 No change	4	5 Much longer
<hr/>				
1 to 4 single-family units				

1 2 3 4 5

5 to 49 single-family units

1 2 3 4 5

50 or more single-family units

1 2 3 4 5

Multifamily residential

1 2 3 4 5

- 13 PROJECTS REQUIRING ZONING CHANGE. How long does it take, on average, to complete all required regulatory review for residential projects requiring zoning changes?

Please enter this average time, from application being filed to building permit issued, in years and months for each project type.

1 to 4 single-family units	<input type="text"/>
5 to 49 single-family units	<input type="text"/>
50 or more single-family units	<input type="text"/>
Multi- family residential	<input type="text"/>

- 14 SUBDIVISION APPROVALS. How long does it take, on average, to complete all required regulatory

review for subdivision approvals?

Please enter this average time, from application being filed to building permit issued, in years and months for each project type.

5 to 49 single-family units

50 or more single-family units

Multi family residential



Survey Page 3

U.C. Berkeley Program on Housing and Urban Policy Survey on Land Use Practices

ALL ANSWERS WILL BE KEPT IN STRICTEST CONFIDENCE.

PLEASE ANSWER ALL QUESTIONS BELOW AS BEST YOU CAN, BASED UPON YOUR OWN KNOWLEDGE AND OPINION

-
- 15 DEVELOPMENT CAPS.** Does your jurisdiction ever impose annual limits on any of the following? Please check all that ever apply.

☐ Single-family building permits granted

☐ Multifamily building permits granted

- ☐ New single-family units
 - ☐ New multifamily units
 - ☐ Population growth
-

MINIMUM LOT SIZE.

- 16** Does your jurisdiction ever impose a minimum lot-size requirement on single-family development?

☐ YES ☐ NO

- 17** If yes, which minimum lot-sizes does your jurisdiction have? Please check all that ever apply.

- ☐ Less than 1/2 acre
 - ☐ 1/2 acre up to 1 acre
 - ☐ 1 acre up to 2 acres
 - ☐ 2 acres or more
-

INCLUSIONARY HOUSING.

- 18** Does your jurisdiction ever require developers to provide affordable-housing units in their projects?

☐ YES ☐ NO

- 19** If yes, does your jurisdiction ever allow developers to pay fees in lieu of providing affordable-housing units?

☐ YES ☐ NO

OPEN SPACE.

- 20** Does your jurisdiction ever require developers to dedicate open space in their projects?

☐ YES ☐ NO

- 21** If yes, does your jurisdiction ever allow developers to pay fees in lieu of providing open-space dedications?

INFRASTRUCTURE REQUIREMENTS.

- 22** Does your jurisdiction ever require developers to provide infrastructure improvements for their projects?

- 23** If yes, does your jurisdiction ever allow developers to pay fees in lieu of providing infrastructure improvements?



Survey Page 4

U.C. Berkeley Program on Housing and Urban Policy Survey on Land Use Practices

ALL ANSWERS WILL BE KEPT IN STRICTEST CONFIDENCE.

PLEASE ANSWER ALL QUESTIONS BELOW AS BEST YOU CAN, BASED UPON YOUR OWN KNOWLEDGE AND OPINION

COST INCREASES FOR SINGLE-FAMILY DEVELOPMENT.

- 24** LAND COST. How much has the raw-land cost of a single-family lot increased in the last ten years in your jurisdiction? Please fill in the blank.

Percent change
in land cost:

- 25** PROJECT COST. How much has the total cost of single-family development, including subdivision and other review, increased in the last ten years in your jurisdiction? Please fill in the blank.

Percent change
in project cost:

ZONING CHANGE APPLICATIONS & APPROVALS.

- 26** APPLICATIONS. How many project-based applications for zoning changes (e.g. conditional use permit, variance, or other rezoning) were filed in your jurisdiction in the past 12 months? Please

fill in the blank.

Number of
zoning-change
applications
filed:

-
- 27** APPROVALS. How many applications for zoning changes were APPROVED by your jurisdiction in the past 12 months? Please fill in the blank.

Number of
zoning-change
applications
approved:

SUBDIVISION APPLICATIONS & APPROVALS.

- 28** APPLICATIONS. How many subdivision applications were filed in your jurisdiction in the past 12 months? Please fill in the blank.

Number of
subdivision
applications
filed:

-
- 29** APPROVALS. How many subdivision applications were approved by your jurisdiction in the past 12

months? Please fill in the blank.

Number of
subdivision
applications
approved:

CONTACT INFORMATION.

- 30** To assist us in following up as needed to clarify your responses, please provide the following contact information, which will be held in the strictest confidence:

Name	<input type="text"/>
Title	<input type="text"/>
Jurisdiction	<input type="text"/>
Address	<input type="text"/>
Phone	<input type="text"/>
Fax	<input type="text"/>
Email	<input type="text"/>

- 31 RESULTS.** Would you like to receive the results of this survey?

32 COMMENTS. Do you have any comments on the survey you would like to provide us?

Thank you so much for taking the time to complete this survey.

Please contact Corie Calfee at calfee@berkeley.edu with any questions.



Survey Page 5

Appendix 5

1990 Wharton Survey of Land-Use Regulation

WHARTON URBAN DECENTRALIZATION PROJECT

(with the cooperation of the International City Managers Association)

DEVELOPMENT REGULATION SURVEY QUESTIONNAIRE

I. JURISDICTION

Name of Jurisdiction _____ Zip Code _____

1. Type of Jurisdiction: ☐ City
☐ County
☐ Township
☐ Town, Village, or Borough
☐ Other _____

2. Size of Jurisdiction: _____ Square miles

3. Population

a) Current Population Estimate _____

b) Annual Population Growth Rate

Past 5 years _____ % per year

Projected next
5 years _____ % per year

II. DEVELOPMENT POLICIES

The following questions concern public policies and actions that affect the supply of land for single-family detached housing. Please give us the benefit of your opinion.

4. What is the main building code utilized by your community?

- Building Officials and Code Administrators (BOCA) ☐
Southern Building Code (SBCCI) ☐
Uniform Building Code (UBC/ICBO) ☐
Council of American Building Officials (CABO) ☐
Other ☐

5. Please rate the importance of the following factors, on a scale of 1 to 5, to the development process in your community. (1 = not at all important to 5 = very important)

	Not Important				Very Important		
	1	2	3	4	5	Not Sure	
Population Growth	[]	[]	[]	[]	[]	[]	
Population density	[]	[]	[]	[]	[]	[]	
Adequate infrastructure	[]	[]	[]	[]	[]	[]	
Land costs	[]	[]	[]	[]	[]	[]	
Regulation	[]	[]	[]	[]	[]	[]	
Development standards	[]	[]	[]	[]	[]	[]	
Comprehensive planning	[]	[]	[]	[]	[]	[]	
Tax rates	[]	[]	[]	[]	[]	[]	
Quality of life	[]	[]	[]	[]	[]	[]	
Other specify	[]	[]	[]	[]	[]	[]	

6. On a scale of 1 to 5, please rate the effectiveness of each of the following growth management techniques in controlling growth in your community. (1 = not effective to 5 = very effective).

	Not Important				Very Important		
	1	2	3	4	5	Not Sure	
Adequate facilities	[]	[]	[]	[]	[]	[]	
Ordinances	[]	[]	[]	[]	[]	[]	
Building permits	[]	[]	[]	[]	[]	[]	
Population limits	[]	[]	[]	[]	[]	[]	
Exactions/Impact fees	[]	[]	[]	[]	[]	[]	
Urban service boundary	[]	[]	[]	[]	[]	[]	
Farm protection	[]	[]	[]	[]	[]	[]	
Zoning ordinance	[]	[]	[]	[]	[]	[]	
Other specify	[]	[]	[]	[]	[]	[]	

7. How did the time to obtain a routine single-family project approval (zoning and subdivision) change during the period from 1983 to 1988?

Shortened considerably	Shortened somewhat	No change	Increased somewhat	Increased considerably	No opinion
[]	[]	[]	[]	[]	[]

8. What is the typical amount of time between application for rezoning and issuance of a building permit for the development of:

	Less than fifty single-family units	Fifty or more single-family units	Office building of under 100,000 square ft.
Less than 3 mons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 to 6 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 to 12 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 to 24 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More than 24 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. What is the typical amount of time between application for subdivision approval and the issuance of a building permit (assume proper zoning already in place) for the development of:

	Less than fifty single-family units	Fifty or more single-family units	Office building of under 100,000 square ft.
Less than 3 mons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 to 6 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 to 12 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 to 24 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More than 24 months	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. How does the acreage of land zoned for the following land uses compare to demand?

	Far more than demanded	More than demanded	About right	Less than demanded	Far less than demanded	No opinion/ not sure
Single Family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Multi/Family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commercial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. How does the current availability of land zoned for the following single-family residential lot sizes compare to demand?

	Far more than demanded	More than demanded	About right	Less than demanded	Far less than demanded	No opinion/ not sure
Less than 4,000 sq. ft.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4,000 - 8,000 sq.ft.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8,000 - 10,000 sq. ft.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10,000 - 20,000 sq. ft.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Over 20,000 sq. ft.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- 12.** How many single-family lots have been approved for development (with full services) for each of the following lot sizes during the past 12 months? If zero, please indicate "0".

	Number of Lots
Less than 4,000 sq. ft.	_____
4,000 - 8,000 sq. ft.	_____
8,000 - 10,000 sq. ft.	_____
10,000 - 20,000 sq. ft.	_____
Over 20,000 sq.ft.	_____

- 13.** How many acres of land have been approved for development (with full services) for each of the following land uses during the last 12 months? If zero, please indicate "0".

	Acreage
Multi-family	_____
Office	_____
Retail	_____
Industrial	_____

- 14.** Approximately what percentage of applications for zoning changes were approved in your community during the past 12 months?

☐ 100-90% ☐ 89-60% ☐ 59-30% ☐ 29-10% ☐ 10-0%

- 15.** How has the provision of roads and sewers kept pace with growth needs?

Much more than needed	Slightly more than needed	About right	Less than needed	Far less than needed	No opinion/ not sure
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16. For a typical 2,000 - 3,000 sq. ft. single family home (for example, with 3 bedrooms and 2 baths), please indicate which fees/exactions are imposed in your area and associated characteristics:

	Amount (dollar or set- aside acreage)	Unit of Impact (e.g. per sq. ft.)	Assessed at the time of:			Paid at the time of:		
			<u>Zoning</u>	<u>Sub- division</u>	<u>Permit</u>	<u>Zoning</u>	<u>Sub- division</u>	<u>Permit</u>
Schools	_____	_____	_____	_____	_____	_____	_____	_____
Parks	_____	_____	_____	_____	_____	_____	_____	_____
Sewer	_____	_____	_____	_____	_____	_____	_____	_____
Fire Houses	_____	_____	_____	_____	_____	_____	_____	_____
Libraries	_____	_____	_____	_____	_____	_____	_____	_____
Community Centers	_____	_____	_____	_____	_____	_____	_____	_____
Others	_____	_____	_____	_____	_____	_____	_____	_____

We do not use fees/exactions _____

17. Which of the following techniques does your community use to regulate the conversion of land from agricultural/open space to residential, commercial or industrial use?

- ☐ Agricultural Land Conversion Tax
- ☐ Transfer of Development Rights
- ☐ Land Banking
- ☐ Real Estate Transfer Tax
- ☐ Urban Development Boundaries
- ☐ Water/Sewer provision Staging Plan
- ☐ Historic Preservation Requirements
- ☐ Other

18. In your community, how prevalent are the following modes of introducing growth management policies?

	Very prevalent	Somewhat prevalent	Not prevalent	Not sure/do not know
Citizen referendum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legislative action by the municipality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legislative action by the county	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legislative action by the state	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative action by public authorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19. How much has the cost of lot development, including subdivision, increased from 1983-1988?

- | | | | |
|---------------------------------|---------------------------------|--------------------------------------|---------------------------------|
| <input type="checkbox"/> None | <input type="checkbox"/> 1-9% | <input type="checkbox"/> 10-19% | <input type="checkbox"/> 20-29% |
| <input type="checkbox"/> 30-39% | <input type="checkbox"/> 40-49% | <input type="checkbox"/> 50% or more | |

20. How would you describe your jurisdiction?

- ☐ High growth area
- ☐ Medium growth area
- ☐ Slow growth area
- ☐ No growth area

21. In your opinion, how do living conditions in this community compare to five years ago?

- | | |
|-----------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> Better | <input type="checkbox"/> Worse |
| <input type="checkbox"/> About the same | <input type="checkbox"/> Not sure/do not know |

22. In your opinion, who should pay for roads, sewers, and schools when a new residential development is built?

- | | |
|-------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Developers | <input type="checkbox"/> All residents in the city |
| <input type="checkbox"/> Users | <input type="checkbox"/> New residents |
| | <input type="checkbox"/> Share between developers and new residents |

23. Name _____

24. Title _____

25. Organization _____

26. Status: ☐ 1 Public
 ☐ 2 Private
 ☐ 3 Non Profit

27. Address _____

28. Telephone _____

29. How long have you worked or lived in the community?
_____ years.

30. Check this box if you would like to receive a copy of the results of this survey. ☐

THANK YOU

November 1989

WHARTON URBAN DECENTRALIZATION PROJECT

SURVEY OF COUNTY GOVERNMENTS

I. GENERAL INFORMATION

1. Name of County: _____
2. State: _____
3. Size of County: _____ square miles
4. Size of population: _____
5. Number of municipal governments (cities, towns, boroughs, villages, or townships) in county: _____

Number of school districts in county: _____

Number of special districts in county: _____

Number of cities in county with population > 100,000 : _____
6. How would you describe your county? Please check one.

<input type="checkbox"/> High growth area	<input type="checkbox"/> Medium growth area
<input type="checkbox"/> Slow growth area	<input type="checkbox"/> No growth area

II. FINANCIAL POLICY AND ADMINISTRATION STRUCTURE

7. TAXATION

- (a) Which governments have the authority to impose a property tax in the county?
Please check each that do.

☐ County ☐ Municipalities ☐ Special Districts ☐ School Districts

- (b) What is the effective county tax rate for each of following types of property?
(effective rate = statutory rate x average assessment ratio)

Residential	_____ %	answers should be $\leq 10\%$
Commercial	_____ %	answers should be $\leq 10\%$
Industrial	_____ %	answers should be $\leq 10\%$

8. IMPACT FEES AND EXACTIONS (set-aside requirements)

- (a) Which of the following levels of government impose impact fees or exactions on new residential developments, for each type of service indicated?
Please check each government unit that assesses an impact fee.

SCHOOLS:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> School Districts
PARKS:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
LIBRARIES/ COMMUNITY CENTERS:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
PUBLIC SAFETY:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
WATER:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
SEWER:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
ROADS:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts
OTHERS:	<input type="checkbox"/> County	<input type="checkbox"/> Municipalities	<input type="checkbox"/> Special Districts

- (b) Please answer this question for only those services financed by impact fees/exactions charged by the county. If there are no county impact fees, then please go on to question 9. Do not include permit fees.

Consider a new development consisting of 100 single family homes (approximately 3 bedrooms, 2 baths, 2500 square feet, half acre lot, 1 car garage). What impact fees or exactions are typically applied? Please fill in 0 if no fees or set asides are required. If dollar fees are substitutable for acreage set-asides, list only the \$ amount.

	<u>\$ AMOUNT PER UNIT</u>	<u>ACREAGE SET ASIDE PER UNIT</u>
Schools:	_____	_____
Parks:	_____	_____
Libraries/ Community Centers:	_____	_____
Public Safety:	_____	_____
Water:	_____	_____
Sewer:	_____	_____
Roads:	_____	_____
Others:	_____	_____

9. Debt Structure

(a) General obligation bonds are issued by:

- | | |
|--------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> County | <input type="checkbox"/> Municipalities |
| <input type="checkbox"/> Special Districts | <input type="checkbox"/> School Districts |

(b) Revenue bonds (pledged against user charges) are issued by:

- | | |
|--------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> County | <input type="checkbox"/> Municipalities |
| <input type="checkbox"/> Special Districts | <input type="checkbox"/> School Districts |

10. User Fees

(a) Which levels of government impose user charges? Check all relevant levels.

- | | |
|--------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> County | <input type="checkbox"/> Municipalities |
| <input type="checkbox"/> Special Districts | <input type="checkbox"/> School Districts |

(b) For those user charges utilized by the county, list the item and unit of impact.
(Ex. Item: Toll roads charge = \$.10 per mile)

Item 1:	_____	charge = _____
Item 2:	_____	charge = _____
Item 3:	_____	charge = _____
Item 4:	_____	charge = _____

11. To what extent is the financial and production organization of your county influenced by the following factors? On a scale of 1 to 5 (5=highest grade), please check a number for each factor.

	[1]	[2]	[3]	[4]	[5]
Desire to approximate most cost effective structure	___	___	___	___	___
Desire to mitigate service inequities within county	___	___	___	___	___
Desire to have maximal autonomy by local communities	___	___	___	___	___
Adherence to historical custom	___	___	___	___	___

12. In choosing the county's mix of taxes, fees, debt, user charges and the like, do you consider the relation between your choice and the choices of nearby counties?
☐ Yes ☐ No

Please comment:

- 13.** In your opinion, do municipalities within your county and across other counties "compete" for jobs and high income residents by their choice of financing and service provision:

☐ Yes ☐ No

We would appreciate any elaboration you might make on this point.

- 14.** To what extent do the following characteristics of municipalities influence whether or not they arrange for public services through the county, produce the service in conjunction with other municipalities, or produce the services themselves? (5 = highest grade)

	[1]	[2]	[3]	[4]	[5]
Population size	—	—	—	—	—
Average household income	—	—	—	—	—
Access to grants-in-aid	—	—	—	—	—
Desire for autonomy	—	—	—	—	—
Ability to privatize	—	—	—	—	—

III. LAND USE REGULATIONS AND ADMINISTRATION

15. ZONING

- (a) Please check the statement below which best describes your county.

- ☐ Only the county exercises zoning authority.
☐ Only municipalities exercise zoning.
☐ The county zones unincorporated areas only and municipalities exercise separate zoning authority.
☐ The county zones for some municipalities while other municipalities decide their own zoning.

- (b) If your county exercises zoning authority, please check each type of zoning used.

- ☐ density restrictions ☐ minimum lot size requirements ☐ allowable use zoning

16. BUILDING PERMITS

(a) What statement below best describes your county? Please check one.

- ☐ Only the county issues building permits.
☐ Only municipalities issue building permits.
☐ The county and some (or all) municipalities separately issue building permits.

(b) Please rate the degree to which the following factors influence whether a residential, commercial, or industrial project is awarded a county permit. (1 = not important, 5 = very important). Please check one number for each.

	[1]	[2]	[3]	[4]	[5]
Quality of building standards	—	—	—	—	—
Traffic Impact	—	—	—	—	—
Environmental Impact	—	—	—	—	—
Population Impact	—	—	—	—	—
Preservation of residential character	—	—	—	—	—

17. LAND CONVERSION

Which of the following techniques does your county use to regulate the conversion of land from agriculture or open space to residential, industrial, or commercial use? Please check all techniques used.

- ☐ Agriculture Land Conversion Tax
☐ Transfer of Development Rights
☐ Land Banking
☐ Real Estate Transfer Tax
☐ Urban Development Boundaries
☐ Water/Sewer Provision Staging Plan
☐ Historic Preservation Requirements
☐ Others _____ (Please specify)

IV. ADDRESS INFORMATION

Name: _____
 Title: _____
 Organization: _____
 Street/box: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____

THANK YOU !

Appendix 6

2005 Wharton Survey of Land-Use Regulation (Update)

SURVEY ON RESIDENTIAL LAND-USE REGULATION

JURISDICTION

Name of Jurisdiction _____ Zip Code _____

Type of Jurisdiction _____
(City, County, Township, Town, Village, Borough)

Size of Jurisdiction _____ square miles

Population

Current population estimate _____

Population growth: Past 5 years _____ % Projected next 5 years _____ %

GENERAL CHARACTERISTICS OF LAND REGULATORY PROCESS

1. In your community, how involved are the following organizations in affecting residential building activities and/or growth management procedures? Please rate the importance of each on a scale of 1 to 5 by circling the appropriate number (1 = not at all involved; 5 = very involved).

- Local Council, Managers, Commissioners	1	2	3	4	5
- Community pressure	1	2	3	4	5
- County legislature	1	2	3	4	5
- State legislature	1	2	3	4	5
- Local courts	1	2	3	4	5
- State courts	1	2	3	4	5

-
2. Which of the following are required to approve zoning changes, and by what vote?

	Yes	Yes, by simple majority	Yes, by more than simple majority	No
- Local Planning commission				
- Local Zoning Board				
- Local Council, Managers, Commissioners				
- County Board of Commissioners				
- County Zoning Board				
- Environmental Review Board				

3. Which of the following are required to approve a new project that does not need rezoning, and by what vote?

	Yes	Yes, by simple majority	Yes, by more than simple majority	No
- Planning Commission				
- Local Council, Managers, Commissioners				
- County Board				
- Environmental Review Board				
- Public Health Office				
- Design Review Board				

4. On a scale of 1 to 5, please rate the importance of each of the following factors in regulating the rate of residential development in your community (1 = not at all important; 5 = very important). Please circle the appropriate number.

	Single Family Units					Multi Family Units				
- Supply of land	1	2	3	4	5	1	2	3	4	5
- Cost of new infrastructure	1	2	3	4	5	1	2	3	4	5
- Density restrictions	1	2	3	4	5	1	2	3	4	5
- Impact fees/exactions	1	2	3	4	5	1	2	3	4	5
- City budget constraints	1	2	3	4	5	1	2	3	4	5
- City Council opposition to growth	1	2	3	4	5	1	2	3	4	5
- Citizen opposition to growth	1	2	3	4	5	1	2	3	4	5
- School crowding	1	2	3	4	5	1	2	3	4	5
- Length of review process for zoning	1	2	3	4	5	1	2	3	4	5
- Length of review process for building permits	1	2	3	4	5	1	2	3	4	5
- Length of review process for land development plan	1	2	3	4	5	1	2	3	4	5

RULES OF RESIDENTIAL LAND USE REGULATION

5. Does your community place annual limits on the total allowable:

	Yes	No
- No. of building permits – single family?		
- No. of building permits – multi-family?		
- No. of residential units authorized for construction – single family?		
- No. of residential units authorized for construction – multi-family?		
- No. of multi-family dwellings?		
- No. of units in multi-family dwellings?		

6. To build, do developers have to meet these requirements?

	Yes	No
- Meet the minimum lot size requirement? If yes: ½ acre or more _____ ½ acre or less _____ 1 acre or more _____ 2 acres or more _____		
- Include “affordable housing” (however defined)?		
- Supply mandatory dedication of space or open space (or fee in lieu of dedication)?		
- Pay allocable share of costs of infrastructure improvement?		

SPECIFIC CHARACTERISTICS

7. How does the acreage of land zoned for the following land uses compare to demand?

	Far more than demanded	More than demanded	About right	Less than demanded	Far less than demanded
- Single-family					
- Multi-family					
- Commercial					
- Industrial					

8. How much has the cost of lot development, including subdivisions, increased in the last 10 years?
Please circle the appropriate category.

0-20% 21-40% 41-60% 61-80% 81-100% >100%

9. How much has the cost of a single family lot increased in the last 10 years?
Please circle the appropriate category.

0-20% 21-40% 41-60% 61-80% 81-100% >100%

10. What is the current length of time required to complete the review of residential projects in your community?

For single-family units: _____ months

For multi-family units: _____ months

11. Over the last 10 years, how did the length of time required to complete the review and approval of residential projects in your community change?

	no change	somewhat longer	considerably longer
- Single-family units			
- Multi-family units			

12. What is the typical amount of time between application for rezoning and issuance of a building permit for development of:

	Less than 3 mos.	3 to 6 mos.	7 to 12 mos.	13 to 24 mos.	If above 24, How long?
- Less than 50 single family units					
- 50 or more single family units					
- Multi-family units					

13. What is the typical amount of time between application for subdivision approval and the issuance of a building permit (assume proper zoning is already in place) for the development of:

	Less than 3 mos.	3 to 6 mos.	7 to 12 mos.	13 to 24 mos.	If above 24, How long?
- Less than 50 single family units					
- 50 or more single family units					
- Multi-family units					

14. How many applications for zoning changes were submitted in your community in the last 12 months?

15. How many applications for zoning changes were approved in your community in the last 12 months?

In the event we might need to clarify any of the answers to the above questions, we would appreciate the following information, which will be held in total confidence.

Name _____

Title _____

Organization _____

Address _____

Phone _____

Fax _____

E-mail _____

Please check this box if you would like to receive the results of this survey. ☐

Thank you very much for taking the time to complete this survey.

June 2004

Appendix 7

1988 Glickfeld/Levine Survey of Growth Control and Land-Use Regulation



League of California Cities

1400 K STREET • SACRAMENTO, CA 95814 • (916) 444-5790

California Cities
Work Together

Sacramento, CA.
November, 1988

TO: City Managers (City Clerks in Non-Manager Cities)

RE: SURVEY ON LOCAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

The League of California Cities is sending this survey on local growth control and growth management measures to all cities in the state. The results will provide a database that describes the scope and nature of growth control and growth management measures being undertaken in local jurisdictions in California. This data base will be used to assist individual cities now considering growth control and growth management measures by providing information on the types and impacts of such measures. This information will also be considered by the League's Growth Control Task Force in developing policies on growth control and growth management. In addition, we anticipate that the next legislative session will be focused on growth control and growth management restrictions.

This survey asks for information on all growth control or growth management measures undertaken in your jurisdiction, whether adopted as an ordinance by the city council or through the initiative ballot process. While people may have different definitions of growth control and growth management measures, for the purposes of this questionnaire such measures are those that control the rate, intensity, type and distribution of development in the jurisdiction.

We would like you to identify measures that are applicable citywide, or have an impact on the entire jurisdiction even though it may be limited to a particular geographical area. Advisory measures, short-term restrictions (such as a zoning moratorium to prepare a community plan), single site or project restrictions which do not have a jurisdictionwide effect, or measures which are no longer in effect should be excluded.

Only one survey per jurisdiction should be completed. Please have the staff person who is the most knowledgeable on the purpose, content and impacts of your city's growth control and growth management measures complete this survey. In many jurisdictions, the Planning Director would probably be the appropriate person.

Please fill out and return this survey even if you do not currently have any growth control or growth management measures. It is extremely important that every jurisdiction respond to this survey. We apologize for the length of this survey, but please respond to all of the questions. Please return this survey as soon as possible, but no later than December 30.

Thank you for your assistance. The results of this survey should be available in February, 1989.

LEAGUE OF CALIFORNIA CITIES
SURVEY ON GROWTH CONTROL

RETURN BY DECEMBER 30.

GENERAL INFORMATION

1. NAME OF JURISDICTION: _____
2. NAME OF RESPONDENT: _____
3. TITLE OF RESPONDENT: _____
4. POPULATION: not coded; replaced with standardized data

5. GEOGRAPHIC LOCATION: not coded; replaced with standardized data

Check one of the following:

- | | |
|-------------------------------------|-------------------------------------|
| a. _____ Northern Coastal | g. _____ Central Inland |
| b. _____ Northern Foothill/Mountain | h. _____ Central Desert |
| c. _____ Northern Inland | i. _____ Southern Coastal |
| d. _____ Northern Desert | j. _____ Southern Foothill/Mountain |
| e. _____ Central Coastal | k. _____ Southern Inland |
| f. _____ Central Foothill/Mountain | l. _____ Southern Desert |

6. DEVELOPMENT CHARACTER

Check one of the following that describes the character of your city:

- | | |
|-------------------------|----------------|
| a. _____ Urban/Suburban | b. _____ Rural |
|-------------------------|----------------|

7. GROWTH DEMAND

Check one of the following that best fits your city:

- a. _____ There is a strong market demand for housing development in our jurisdiction.
 - b. _____ There is a strong market demand for commercial and industrial development in our jurisdiction.
 - c. _____ Both a. and b..
 - d. _____ There is a lack of a strong demand for growth in our jurisdiction.
 - e. _____ Other (Please Explain) _____
-

8. PLANNING DOCUMENT STATUS

Please check below all applicable statements regarding the status of your city's required planning documents.

- a. _____ Our general plan is complete (i.e., includes all state mandated elements).
Please note year of adoption: _____
- b. _____ We are currently in the process of updating our general plan.
- c. _____ We are currently in the process of updating one or more state mandated general plan elements.
- not coded d. _____ Our general plan is incomplete or over 10 years old.
- e. _____ We have asked for or received a general plan extension from the State Office of Planning and Research.
- f. _____ We have adopted a general plan growth management element or are currently developing such an element.
- not coded g. _____ Our housing element is complete and finally adopted.
Please note year of adoption: _____.
- not coded h. _____ We only have a draft housing element.
- not coded i. According to the State Department of Housing, Community Development (HCD), our adopted housing element has been deemed:
coded
(1) _____ In compliance. (2) _____ Out of compliance.
(3) _____ Obsolete (4) _____ No determination/unknown.
- not coded j. According to HCD, our draft housing element has been deemed:
coded
(1) _____ In compliance. (2) _____ Out of compliance.
(3) _____ Obsolete. (4) _____ No determination/unknown.
-

II. RESIDENTIAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

9. POPULATION GROWTH LIMITATIONS

Does your city have a measure* which establishes a population growth limit or restricts the level of population growth for a given time frame (i.e., annual basis)?

**"Measure" includes initiatives adopted by the voters or regulatory ordinances adopted by the city council. It excludes resolutions or other policy statements.*

a. _____ YES b. _____ NO

If YES, adopted by (1) _____ initiative or (2) _____ ordinance.
(3) _____ year enacted.

10. HOUSING PERMIT LIMITATIONS

Does your city have a measure which restricts the total number of permitted residential building permits in a given time frame (i.e., annual basis) for:

a. _____ YES b. _____ NO

If YES, applies to (1) _____ single family or (2) _____ multiple
family or (3) _____ both

If YES, total # of permitted units: (4) _____ per (5) _____.

If YES, adopted by (6) _____ initiative or (7) _____ ordinance.
(8) _____ year enacted.

11. HOUSING INFRASTRUCTURE REQUIREMENTS

Does your city have a measure which specifically requires adequate service levels (i.e., road capacity/traffic congestion) or service capacity (i.e., water, sewers, etc.) prior to or as a condition of approval of a residential development?

a. _____ YES b. _____ NO

If YES, adopted by (1) _____ initiative or (2) _____ ordinance.
(3) _____ year enacted.

12. HOUSING DENSITY AND LOCATIONAL RESTRICTIONS

Does your city have a measure which did any of the following (check all applicable responses):

a. _____ Reduced the permitted residential density by general plan amendment or rezoning.

Applicable to: (1) _____ Entire City or (2) _____ Part of City
Adopted by: (3) _____ initiative or (4) _____ ordinance.
Year enacted: (5) _____.

b. _____ Requires voter approval to increase residential densities.

Applicable to: (1) _____ Entire City or (2) _____ Part of City
Adopted by: (3) _____ initiative or (4) _____ ordinance.
Year enacted: (5) _____.

c. _____ Requires super majority council vote to increase residential densities.

Applicable to: (1) _____ Entire City or (2) _____ Part of City
Adopted by: (3) _____ initiative or (4) _____ ordinance.
Year enacted: (5) _____.

- d. _____ Redesignated or rezoned land previously designated for residential development to agriculture or open space (i.e., hillside or ridge preservation).

Adopted by: (1) _____ initiative or (2) _____ ordinance.
(3) _____ year enacted.

IF YOU ANSWERED YES TO QUESTIONS 9, 10, OR 11, OR CHECKED A RESPONSE TO QUESTION 12, PLEASE ANSWER THE FOLLOWING QUESTIONS 13 - 15. IF YOU ANSWERED NO OR DID NOT CHECK A RESPONSE TO QUESTIONS 9-12, GO TO QUESTION 16.

13. PURPOSES OF RESIDENTIAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

Please check all of the applicable purposes for all of your city's residential growth control or growth management measures as listed below:

- a. _____ Air Quality
- b. _____ Water Quality
- c. _____ Agricultural Land Preservation
- d. _____ Open Space/Ridgeline Preservation
- e. _____ Limitation of Urban Sprawl
- f. _____ Preservation of Sensitive Environmental Areas
- g. _____ Reduction in Traffic Congestion
- h. _____ Sewer Capacity Limitations
- i. _____ Water Quantity Limitations
- j. _____ Rapid Population/Housing Growth
- k. _____ Quantity of High Density Housing Developments
- l. _____ Quantity of Low Income Housing Developments
- m. _____ Quality of Life Preservation
- n. _____ Other: (please specify) _____
- o. _____ Information not available
- p. _____ Not applicable - no residential growth control or growth management measures

14. IMPACTS OF RESIDENTIAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

Please check all of the applicable impacts of all of your city's residential growth control or growth management measures as listed below:

- a. _____ Increase in housing costs above inflation rates.
- b. _____ Reduction in the historical level of new housing development.
- c. _____ Increase in average commute distances.
- d. _____ Increase in traffic levels/congestion.
- e. _____ Decrease in projected traffic levels/congestion.
- f. _____ Reduction in projected population levels.
- g. _____ Other. (Please specify): _____
- h. _____ Information not available.

15. LOW-MODERATE INCOME HOUSING EXEMPTIONS

Does your city exempt low and/or moderate income housing units (i.e., affordable to families with an income of 120% or less of the median) from application of your residential growth control/growth management measures?

- a. _____ YES. b. _____ NO. c. _____ Not applicable - no residential growth control or growth management measures.

16. LOW-MODERATE INCOME HOUSING INCENTIVES

Does your city provide any incentives (i.e., density bonus, financial subsidies, etc.) for construction of low and/or moderate income housing units?

- a. _____ YES. b. _____ NO.

If YES, please specify: _____

III. COMMERCIAL AND/OR INDUSTRIAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

17. SQUARE FOOTAGE LIMITATIONS

Does your city have a measure that restricts the amount of square footage that can be built within a given time frame for:

- a. Commercial (i.e., retail and office): (1) _____ YES (2) _____ NO

If YES, applicable to: (3) _____ Entire City or (4) _____ Part of City
If YES, adopted by: (5) _____ initiative or (6) _____ ordinance
(7) _____ year enacted.

- b. Industrial (light industrial/warehouse): (1) _____ YES (2) _____ NO

If YES, applicable to: (3) _____ Entire City or (4) _____ Part of City.
If YES, adopted by: (5) _____ initiative or (6) _____ ordinance
(7) _____ year enacted.

18. COMMERCIAL/INDUSTRIAL INFRASTRUCTURE REQUIREMENTS

Does your city have a measure that specifically requires adequate service levels (i.e., road capacity/traffic congestion) or service capacity (i.e., water, sewer, etc.) prior to or as a condition of approval of commercial and/or industrial development?

- a. _____ YES b. _____ NO

If YES, adopted by: (1) _____ initiative or (2) _____ ordinance
(3) _____ year enacted.

19. COMMERCIAL/INDUSTRIAL LOCATIONAL RESTRICTIONS

Does your city have a measure which redesignated or rezoned land previously designated for commercial and/or industrial development?

a. _____ YES b. _____ NO

If YES, applicable to: (1) _____ Entire City or (2) _____ Part of City.

If YES, adopted by: (3) _____ initiative or (4) _____ ordinance
(5) _____ year enacted.

If YES, redesignated to: (6) _____ residential (7) _____ agriculture
(8) _____ other, Specify: _____

20. COMMERCIAL BUILDING HEIGHT LIMITATIONS

Does your city have a measure adopted within the last 5 years, which restricts the permitted height of commercial/office buildings?

a. _____ YES b. _____ NO

If YES, applicable to: (1) _____ Entire City or (2) _____ Part of City.

If YES, adopted by: (3) _____ initiative or (4) _____ ordinance
(4) _____ year enacted.

IF YOU ANSWERED YES TO QUESTIONS 17, 18, 19 OR 20, PLEASE ANSWER THE FOLLOWING QUESTIONS 21 - 22. IF YOU ANSWERED NO, GO TO QUESTION 23.

21. PURPOSES OF COMMERCIAL AND/OR INDUSTRIAL GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

Please check all of the applicable purposes for all of your city's commercial/industrial growth control or growth management measures as listed below:

- a. _____ Air Quality Preservation
- b. _____ Water Quality Preservation
- c. _____ Agricultural Land Preservation
- d. _____ Open Space Preservation
- e. _____ Limitation of Urban Sprawl
- f. _____ Preservation of Sensitive Environmental Areas
- g. _____ Reduction in Traffic Congestion
- h. _____ Sewer Capacity Limitation
- i. _____ Water Quantity Limitation
- j. _____ Quality of Life Preservation
- k. _____ Other (please specify): _____
- l. _____ Information Not Available
- m. _____ Not applicable -- no commercial/industrial growth control or growth management measures.

22. IMPACTS OF COMMERCIAL/INDUSTRIAL GROWTH AND GROWTH MANAGEMENT MEASURES

Please check below all of the applicable impacts of all of your city's commercial/industrial growth control or growth management measures as listed below:

- a. _____ Increase in the average commute distance
- b. _____ Increase in traffic levels/congestion
- c. _____ Decrease in projected traffic levels/congestion
- d. _____ Reduction in the historical level of new commercial/industrial development.
- e. _____ Loss of projected new commercial, office or industrial developments/employers
- f. _____ Reduction in projected employment levels
- g. _____ Reductions in projected sales tax revenues
- h. _____ Reductions in projected property tax revenues
- i. _____ Increase in the historical level of residential development
- j. _____ Other (please specify): _____
- k. _____ Information not available
- l. _____ Not applicable -- no commercial/industrial growth control or growth management measures

23. JOBS/HOUSING BALANCE

Has your city enacted a policy or ordinance which specifies a desired or required ratio of the number of housing units per the number of jobs within a given area or within the entire city?

- a. _____ YES b. _____ NO

If YES, what is that ratio or percentage: _____

24. JOBS/HOUSING LINKAGE

Has your city enacted an ordinance to require commercial/industrial developers to pay in-lieu fees for housing development or to construct housing units as a condition of development approval?

- a. _____ YES b. _____ NO

IV. OTHER GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

25. URBAN LIMIT LINE/GREENBELT

Has your city established an urban limit line or greenbelt, other than the boundaries of your city, beyond which residential, commercial and/or industrial development is not currently permitted?

- a. _____ YES b. _____ NO

If YES, adopted by: (1) _____ initiative or (2) _____ ordinance.
(3) _____ year enacted.

26. OTHER MEASURES

Does your city have other existing or pending measures which fall under the definition of growth control or growth management which are not covered under the prior questions?

- a. _____ YES b. _____ NO

If YES, please describe: (1) _____

If YES, adopted by: (2) _____ initiative or (3) _____ ordinance or
(4) _____ pending and (5) _____ year enacted.

V. MONITORING AND EVALUATION OF GROWTH CONTROL AND GROWTH MANAGEMENT MEASURES

27. MONITORING BENEFITS AND IMPACTS

Has your city established a program for monitoring or measuring the benefits and impacts of your growth control or growth management measures?

a. _____ YES b. _____ NO

28. EVALUATING BENEFITS AND IMPACTS

Have any studies been conducted by the city or any other public or private agency or group to analyze the benefits and impacts of your growth control or growth management measures?

a. _____ YES b. _____ NO c. _____ Don't Know

If YES, please list the titles and authors of these studies below:

VI. GENERAL COMMENTS

29. Please use the space below to write any comments on growth control and growth management measures which were not included in the prior questions or any comments you may have on this survey.

Please return this survey by December 30 to:

League of California Cities
Attn: Sheryl Patterson
1400 K Street, 4th Floor
Sacramento, CA 95814

GROWTH.leg

Appendix 8
1998 Landis Growth Management Survey

Appendix I:
CALIFORNIA DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Growth Management Control Update Survey

GENERAL INFORMATION

1. NAME OF JURISDICTION: _____
2. NAME OF RESPONDENT: _____
3. TITLE OF RESPONDENT: _____

GROWTH CONTROL UPDATE

4. Since 1995, has your jurisdiction adopted any of the following growth management approaches?
(for each approach, please check yes or no and indicate the year of adoption and how it was adopted)

- a. Residential building permit caps or limitations:** ___YES ___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

Please indicate residential cap level in units per year: _____
Does this cap apply to affordable housing projects? ___YES ___NO

- b. Commercial construction caps or limitations:** ___YES ___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

- c. Adequate Public Facilities Ordinances tied to residential construction:** ___YES ___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

- d. Adequate Public Facilities Ordinances tied to commercial construction:** ___YES
___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

- e. Urban service boundaries, urban limit lines, or urban growth boundaries:** ___YES
___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

- f. Additional controls on annexation:** ___YES ___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

- g. Growth management element to your General Plan:** ___YES ___NO
Year Adopted _____ Adopted by: ___Resolution ___Ordinance ___Initiative ___Other

Appendix I:
CALIFORNIA DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Growth Management Control Update Survey

4. Growth Management Approaches, cont.

h. Rezoning of residential development areas to different uses: ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

i. Downzoning of areas previously identified for residential development: ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

j. Upzoning of areas previously identified for residential development: ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

k. Significant changes in residential development standards to further limit building heights and lot coverages: ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

l. Increases in per unit impact fees of 25% or more: ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

m. Land use changes requiring simple majority vote of the people (50%+1): ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

n. Land use changes requiring supermajority vote of the people (2/3 vote): ☐ YES ☐ NO

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

o. Other - please describe: _____

Year Adopted _____ Adopted by: ☐ Resolution ☐ Ordinance ☐ Initiative ☐ Other

5. Since 1995, have any existing growth controls expired or been withdrawn? ☐ YES ☐ NO

6. If yes, what types have expired or been withdrawn? *(indicate the type of control and the year of expiration/withdrawal)*

TYPE: _____ YEAR: _____

TYPE: _____ YEAR: _____

7. Since 1995, has your city annexed new land areas to allow for additional growth? ☐ YES ☐ NO

Thank you for updating us on your growth management controls. Please fax this form back to:
(510) 643 9576