

FRIDAY, AUGUST 8, 2014

## Wal-Mart expansion can skip CEQA review

*Sonora City Council approved plan directly after project qualified for ballot*

By Emily Green  
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**S**AN FRANCISCO — The expansion of a Wal-Mart facility in Sonora can avoid review under the state's landmark environmental law, the state Supreme Court unanimously ruled Thursday, rejecting arguments that to bypass review the project would first need to win voters' approval.

Lawyers disagreed on the ruling's potential impact. Those opposed said it could open a broad path for companies to skirt the state's California Equality Quality Act, or CEQA, which requires extensive environmental review of proposed development projects.

Lawyers who supported the ruling said it simply reaffirms years-old precedent allowing cities to summarily adopt voter initiatives, which special interest groups of all stripes have used to their advantage. *Tuolumne Jobs & Small Business Alliance v. S.C. (Wal-Mart Stores Inc.)*, 2014 DJ-DAR 10503.

While the case centered on questions of environmental review, the litigation pitted local businesses and a local Chamber of Commerce against Wal-Mart Stores Inc. and the city of Sonora, which approved the store's expansion.

The dispute stemmed from a 2010 voter initiative to expand a Wal-Mart by some 27,000 square feet. After enough signatures were gathered to qualify the measure for

the ballot — roughly 20 percent of the city's voters signed the petition — the city council summarily approved Wal-Mart's expansion rather than hold an election. The city claimed that move exempted the project from review under CEQA.

A group of local businesses opposed to the project sued, arguing city officials abused the initiative process to avoid environmental review. The group argued the project could avoid environmental review only if voters approved it in an election.

In an exceptionally short 15-page decision, Justice Carol Corrigan rejected that argument.

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— Justice Carol Corrigan

On the question of environmental review, there is no distinction between a voter-sponsored initiative directly adopted by the city and a voter-sponsored initiative approved in a special election, Corrigan wrote.

"For over 25 years, the Legislature has enacted no law extending CEQA to initiatives. The legislative history supports the conclusion that CEQA does not apply to any ordinances enacted by initiative, whether through an election or direct adoption."

Moreover, she said, "If the Legislature had intended to require CEQA review before direct adoption ... it could have easily said so. It did not."

The decision overturns the 5th District Court of Appeal, which unanimously ruled against the city. Former Justice Rebecca Wiseman wrote in that decision that "environmental review can be avoided when the voters choose to bypass it, not when the lead agency chooses to bypass the voters." She said that "to hold otherwise would authorize rule by a few — the antithesis of democracy."

John A. Lawrence, who represented the Tuolumne Jobs & Small Business Alliance, which challenged the Wal-Mart expansion, said Thursday's ruling "sets an unfortunate precedent because it allows the pretense of a voter-sponsored initiative to be used as a mechanism to avoid a true vote of the people."

Lawrence said the ruling could be exploited in non-environmental contexts to circumvent state law.

"He is simply flat wrong," replied John A. Ramirez, a partner with Rutan & Tucker LLP who argued on behalf of the Sonora resident who sponsored the ballot initiative.

Ramirez also rejected the idea that the decision would be used only by pro-development groups. "The notion that this is somehow available only to singular interests is wrong."

Wal-Mart spokeswoman Delia Garcia said in a statement that the ruling "is a win for cities across California because it puts local economic development decisions back in the hands of local elected bodies."

Wal-Mart has to pass one more hurdle in the trial court before the expansion can proceed.

"A store will be opening soon," Ramirez said.