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## COURT OF APPEAL REJECTS UNION CEQA CHALLENGE TO MAJOR MIXED USE PROJECT

AGD partner Damon Mamalakis just won an important case in the Court of Appeal. Like many recent projects, the Southwest Regional Council of Carpenters and Laborers' International Union of North America, Local 300 (Unions) challenged the Icon at Panorama mixed use development project with 422 residences and 200,000 sf of commercial development under the California Environmental Quality Act (CEQA).

In response to public comments, including from the Unions, the City added a new alternative to the Final EIR to reduce air quality and traffic impacts. The alternative increased the housing units to 675 units and reduced commercial uses to 60,000 sf. The reduction in commercial space eliminated significant traffic impacts and reduced air quality impacts. The City ultimately approved the Project based on a further revised alternative (Revised Alternative) that reduced the residential units to 623. The Unions sued, claiming that the EIR's project description was unstable because of the adoption of the Revised Alternative and because none of original alternatives in the Draft EIR considered more than 422 units.

The trial court agreed with the Unions, finding that Revised Alternative was materially different from the proposed project and the alternatives in the Draft EIR. As a result, the trial court ruled that the EIR's project description was unstable.

The Court of Appeal reversed the trial court, holding that (i) the Draft EIR project description met all of CEQA's requirements, and (ii) CEQA allows for consideration and approval of a new alternative even if that alternative was added to the Final EIR. The Project is a great example of how CEQA should work - in response to public and governmental comments, the project was changed to address project objectives, environmental issues, and community needs. The trial court ruling would have required recirculation of a Draft EIR whenever there is a material change to the project - that is not how the CEQA recirculation test works. Click [here](#) to read the opinion.

Our clients have increasingly faced union challenges to their projects. Damon's litigation record demonstrates that it is possible to stand up to the unions and other opposition. This is Damon's third appellate court victory in the last six months. Damon and the rest of our attorneys have expertise in countering or resolving union and other opposition during the approval process and defending the approvals in litigation.

Please contact Damon ([damon@agd-landuse.com](mailto:damon@agd-landuse.com); 310-254-9026) for more information.

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