

CEQA Basics

Shannon George & Mark Teague

League of California Cities
Planning Commissioners
Academy
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Presentation Overview

What is the point of the California
Environmental Quality Act (CEQA)

Who does what in the Process?

Types of CEQA Decisions

Key Concepts

Public Comments

What's the point?

Probable and/or
Possible



- Informs you of the environmental effects of the project
- To solve a project's environmental impacts if possible; or,
- To allow your consideration even if it isn't

CEQA Evaluates Change

- Change from existing conditions (not the plan...mostly)
- Short- and long-term impacts
- Direct and indirect changes
- Cumulative changes (includes other projects)
- Local and regional plans



The Players

Applicant:	Project representative who is responsible for the submittal of all information, cost of the environmental analysis, and legal indemnification if the agency is sued.
Staff:	Planning or other city staff who coordinate both in-agency review, and communication with other agencies.
Public:	The recipient of the information, and the target audience.
Lead Agency:	The agency with discretion over the project.
Consultant:	Staff (public or private sector) hired to provide assistance or expertise for the Lead Agency Staff.
Responsible Agency:	An agency with permitting authority, but not approval authority over the project.
Planning Commission:	A volunteer body tasked with reviewing hundreds of pages of highly technical information in order to make a decision narrowly defined by law and to be roundly criticized for having made the decision.

It all starts with a *discretionary* project...

- ▶ A project means the *whole of the action*, which has the potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment.

If there is no discretionary action, CEQA is not required.

Once we have a project, then...

We must determine the level of environmental review.



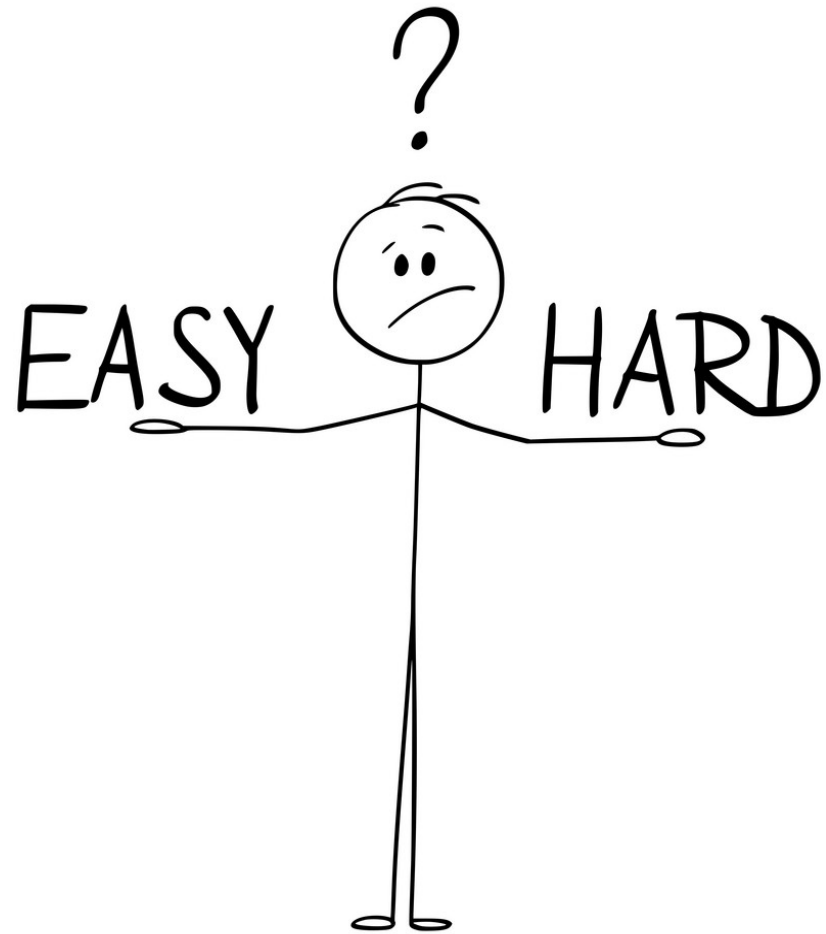
Three basic outcomes:

Exempt	Initial Study to support a Negative Declaration (ND) or Mitigated Negative Declaration (MND)	Environmental Impact Report (EIR)
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Types of CEQA Documents

Exemptions

- Categorical
- Statutory
- **Initial Study Leading to an ND/MND**
 - Negative Declaration (IS/ND) = Without Mitigation Measures
 - Mitigated Negative Declaration (IS/MND) = With Mitigation Measures
- **Environmental Impact Report (EIR)**
 - Programmatic
 - Project



How are CEQA determinations made?

- Knowledge of the community
- Precedent of decision makers
- Understanding of the impacts
- Results of technical studies
- Public Controversy

Checklist and Appendices

Appendix G provides an example checklist

Each agency can (and should) adopt their own

The questions in the checklist are not thresholds

Thresholds are not always in the checklist

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>I. AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐

Exemptions

- Statutory:** Items ruled by the legislature to be exempt from CEQA. (15260–15285) and other places in the state statutes.
- Categorical:** Items in the state or local agency guidelines that are considered to have little or no environmental impact in most instances. (15300–15332)
- General:** A determination that the project will not result in direct or reasonably foreseeable indirect physical change in the environment. This is known as the *common sense* exemption. (15060(c))

Not all Exemptions are in CEQA

Section 15183

Housing Exemptions (SB 330 / SB 35, etc.)

Office of Planning and Research (OPR) CEQA
Exemptions Outside of the CEQA Statute Listing

Lead agency exemptions

Statutory

Specialized Legislation

Managing Risk

- Weighing cost with benefit
- Higher 'protection' comes at a cost
- Not all decisions are obvious
- The deciding factor is the difference between fair argument and substantial evidence



Fair Argument Standard

- When must an EIR be prepared? – When it can be fairly argued, based on substantial evidence, in light of the whole record, that a project may have a significant environmental effect
- This is purposely a low threshold for EIRs
- “Fairly argued” means that there is evidence of the potential for impact in the administrative record before the agency
- Impacts = direct, indirect, and cumulative contribution impacts
- “May have” means that the evidence need not be absolute or unequivocal

CEQA Guidelines 15064[a]

Substantial Evidence

What it is:

- Facts
- Reasonable assumption predicated on facts
- Expert opinion supported by facts

What it isn't:

- Argument
- Speculation
- Unsubstantiated opinion or narrative
- Clearly inaccurate or erroneous information
- Socioeconomic impact not linked to physical environmental impact

Types of CEQA Documents

Substantial Evidence

- Exemptions
 - Statutory
 - Categorical
- Environmental Impact Reports
 - Subsequent
 - Supplement
 - Master
 - Program
 - Project
- Addendum to EIR

Fair Argument

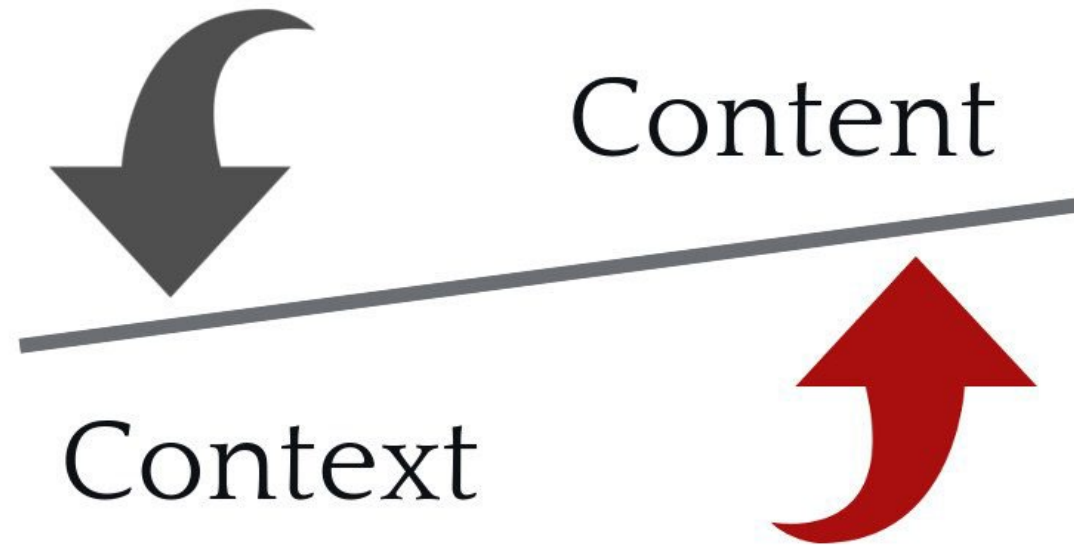
Negative Declarations

- Negative Declaration (No Mitigation Measures)
- Mitigated Negative Declaration

Addendum to Negative Declaration

Context is Everything

- Every community has different standards
- Comparing agencies is difficult
- Not all large projects have impacts
- Not all small project don't
- How do we know?



Key
Concepts –
What you
need to see
and
understand
in a CEQA
document

Baseline

Thresholds of
Significance

Mitigation

Baseline

Defined by the agency – And Stated in the Document

Usually 'existing conditions'

Carefully explained in the document, never assume – If the baseline is not clear, the document is not adequate

A fixed point against which change is measured



Thresholds of Significance

A threshold of significance is a quantitative, qualitative or performance level of a particular environmental effect.

Noncompliance/Exceedance = Significant Impact

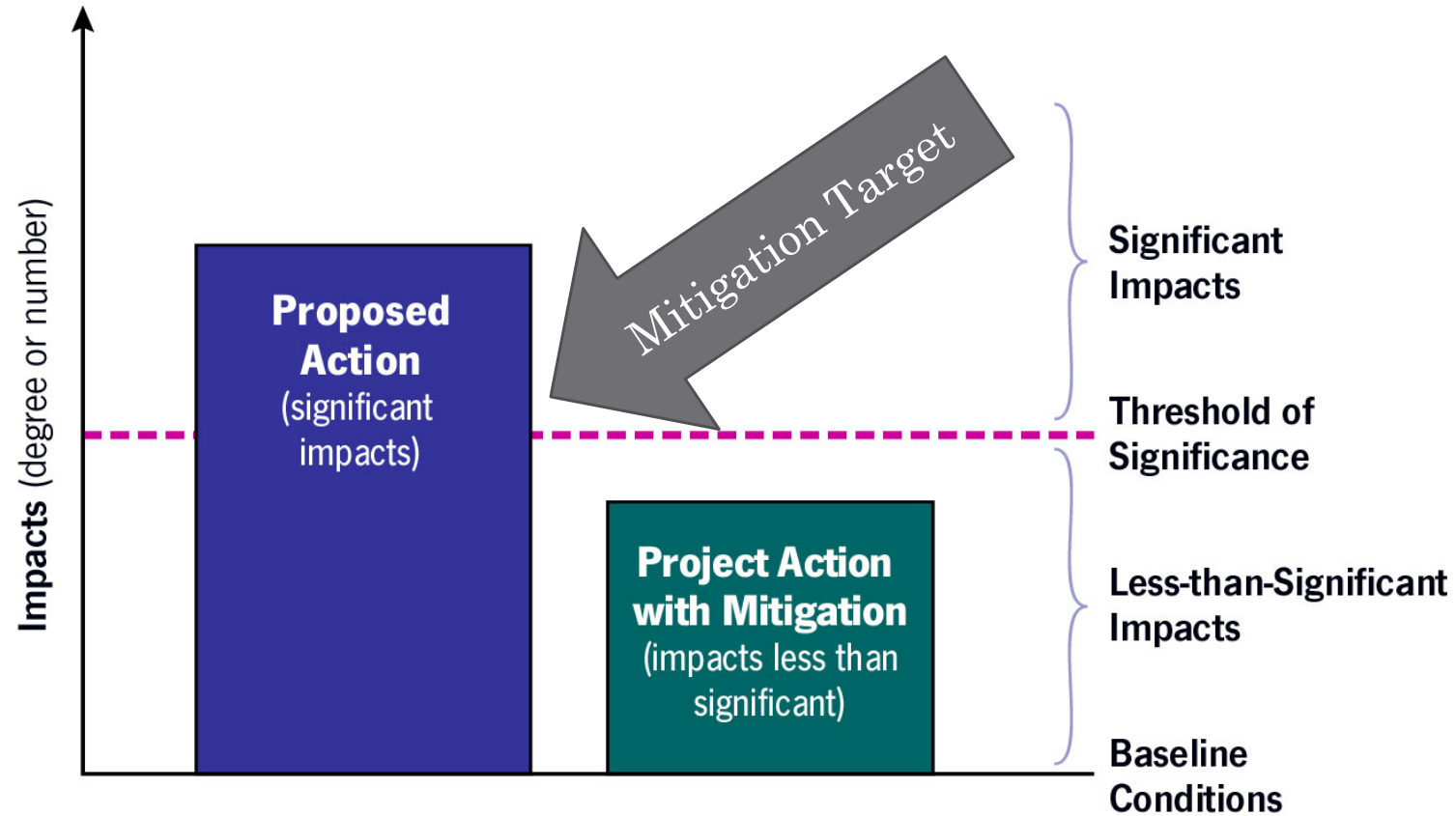
Compliance = Less than Significant Impact

Found in:

- CEQA Guidelines
- General Plan
- Municipal Code
- Adopted Development Standards

<u>P-VALUE</u>	<u>INTERPRETATION</u>
0.001	HIGHLY SIGNIFICANT
0.01	
0.02	
0.03	
0.04	SIGNIFICANT
0.049	
0.050	OH CRAP. REDO CALCULATIONS.
0.051	ON THE EDGE OF SIGNIFICANCE
0.06	
0.07	HIGHLY SUGGESTIVE, SIGNIFICANT AT THE P<0.10 LEVEL
0.08	
0.09	
0.099	HEY, LOOK AT THIS INTERESTING SUBGROUP ANALYSIS
≥0.1	

Understanding Thresholds



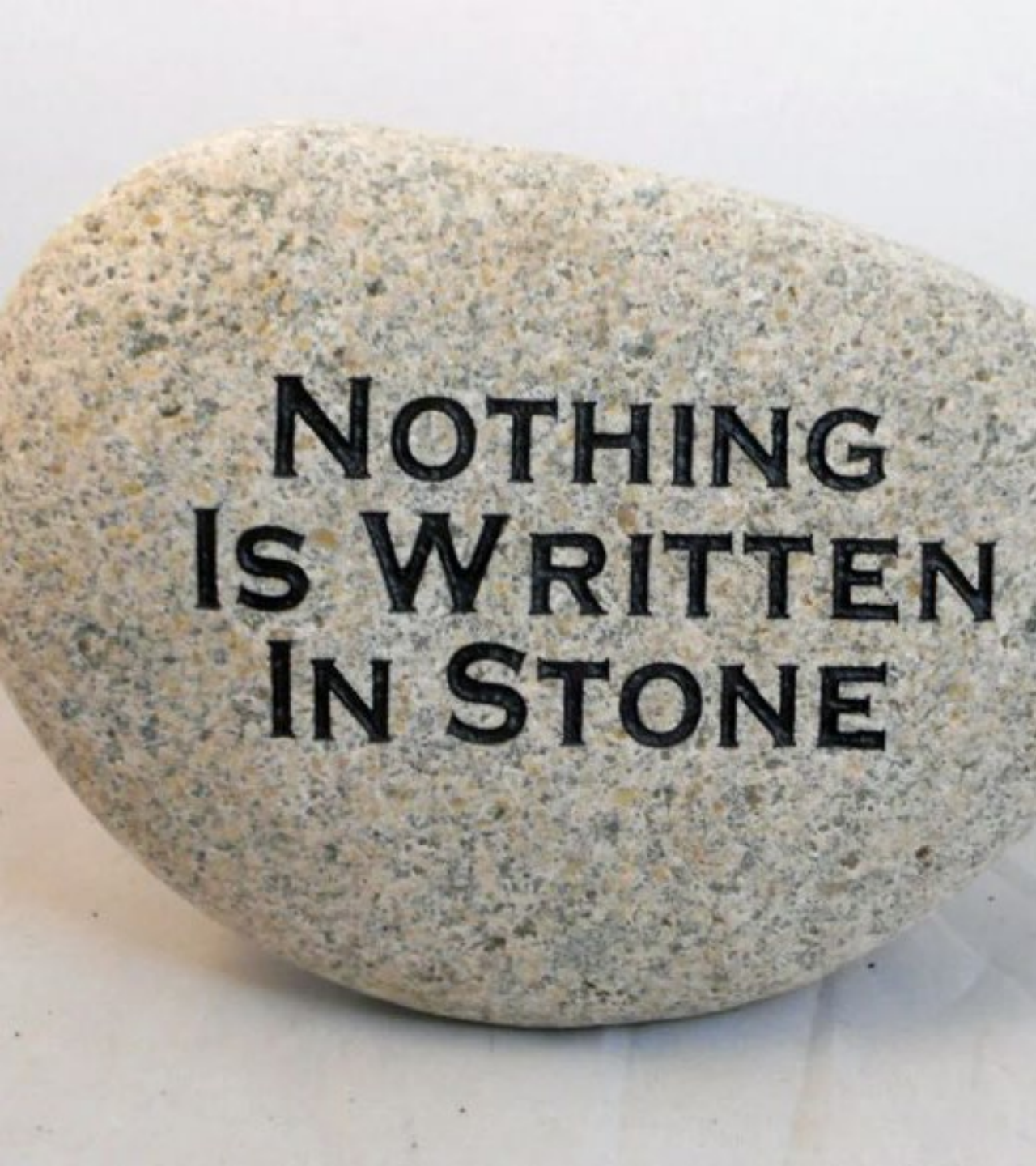
What Is a Mitigation Measure?

Avoid	Avoid the impact altogether by not taking certain action or parts of an action
Minimize	Minimize impacts by limiting the degree or magnitude of the action and its implementation
Rectify	Rectify the impact by repairing, rehabilitating, or restoring the affected environment
Reduce or Eliminate	Reduce or eliminate the impact over time through preservation and maintenance during the life of the action
Compensate	Compensate for the impact by replacing or providing substitute resources or environments

Public Comments

- The public process is a good part of CEQA
- Embrace the passion of the community
- Not all in favor show up...and not all who oppose comment
- Beware hurrying up at the very end
- Late hits and document dumps are part of the process
- Let staff guide you, delaying a meeting is not the end of the world





**NOTHING
IS WRITTEN
IN STONE**

It's done by the time I
get it, what can I do?

- CEQA is not done until the project is approved
- You are the last set of eyes before the decision is made
- Give staff a heads up if you have a question
- Add your reasoning to the record

EIR Myths

The EIR will stop the project.

The EIR will tell me how to vote on the project.

The EIR will be more expensive than a mitigated negative declaration.

The EIR will take longer and than a mitigated negative declaration.

The EIR will be more thorough than a ND/MND.

The EIR will be bulletproof.

What CEQA isn't...



PERFECT



AN ADVOCATE FOR
A PROJECT



THE PROJECT
ITSELF



A CHANCE TO FIX
EXISTING
PROBLEMS



AN ENCYCLOPEDIA
OF EVERYTHING
EVERYWHERE



THE ANALYSIS OF
'WORST CASE'



A DECISION
MAKER

That's it...

- CEQA evaluates how the project changes the environment
- The evaluation is circulated for public review
- If the change is above an adopted threshold, then an agency must take action to:
 - Adopt measures (mitigation) to reduce the impact below the threshold; or,
 - Make findings of overriding consideration to approve the project anyway
- The agency must consider the changes as reported in the analysis before taking action

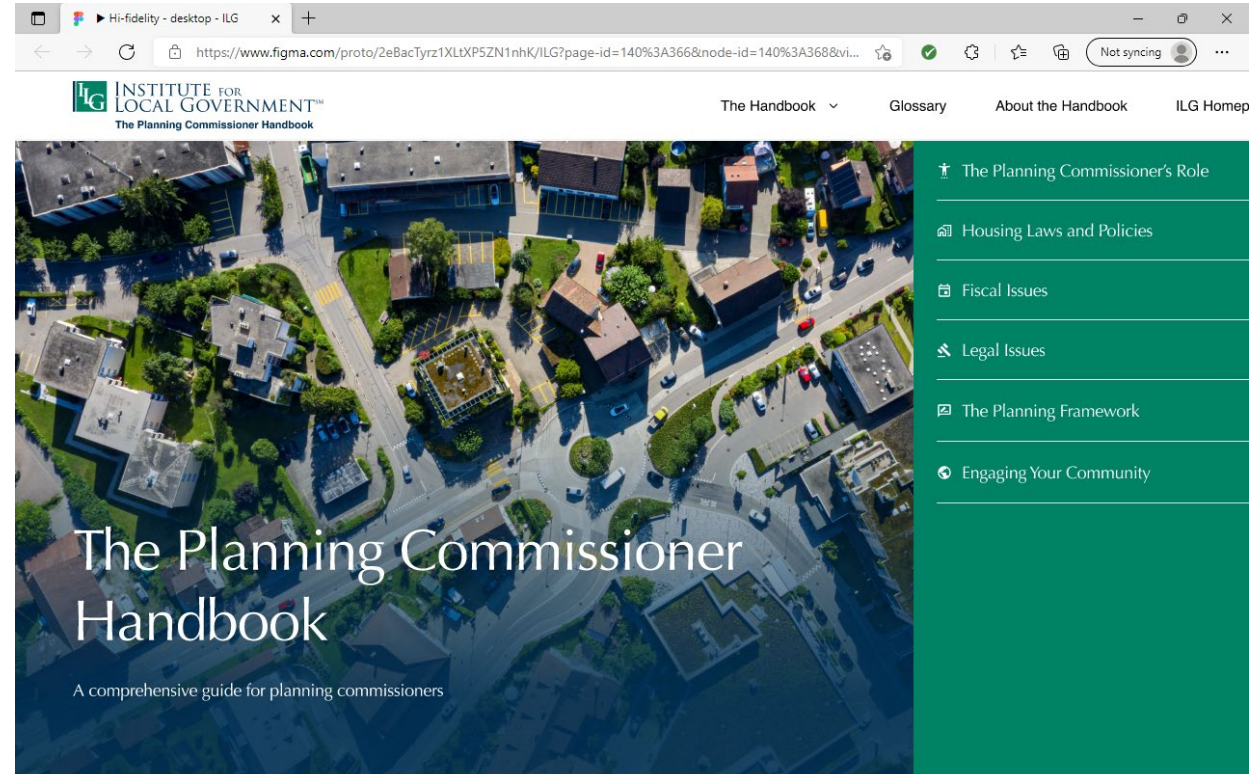


ADDITIONAL RESOURCES

- California Office of Planning and Research (OPR)
 - <https://lci.ca.gov/>
- California Environmental Quality Act (CEQA)
 - <https://lci.ca.gov/ceqa/getting-started/>
- California Legislative Information Code Search (laws)
 - <http://leginfo.legislature.ca.gov/faces/codes.xhtml>
- League of California Cities (Cal Cities)
 - <https://www.calcities.org/>
 - Planning and Community Development Department www.cacities.org/Member-Engagement/Professional-Departments/Planning-Community-Development
- Planning Commissioner Handbook
 - <https://www.ilgplanninghandbook.org/>
- CalEnviroScreen
 - <https://oehha.ca.gov/calenvirosc>
- Housing and Community Development (HCD)
 - www.hcd.ca.gov/
- State Department of Finance (DOF)
 - www.dof.ca.gov/Forecasting/Demographics/
- CEQAnet
 - <https://ceqanet.opr.ca.gov/>
- Institute for Local Government
 - <https://www.ca-ilg.org/>

PLANNING COMMISSIONER HANDBOOK

- New digital toolkit for Planning Commissioners
- Updated content on:
 - CEQA
 - Community Engagement
 - Legal Issues
 - Housing Laws
 - Financing
 - & More!



ILGPlanningHandbook.org

Questions?

Shannon George | VP-Principal Project Manager

David J. Powers & Associates, 408.454.3402

sgeorge@davidjpowers.com | davidjpowers.com

Mark Teague, AICP | Managing Principal, Environmental Services

PlaceWorks, 858.776.5574

mteague@placeworks.com | placeworks.com