

Agencies overseeing Plan Bay Area settle lawsuit

By Richard Halstead, *The Marin Independent Journal*,

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A legal settlement involving Plan Bay Area has both supporters and opponents of regional planning in Marin claiming vindication.

Bay Area regional agencies responsible for Plan Bay Area have settled a lawsuit filed by environmental groups that asserted the plan overstates its ability to reduce greenhouse gas production and fails to protect the health of vulnerable communities situated near transportation corridors.

A collaboration of four regional government agencies, Plan Bay Area sets out housing and transportation plans in response to the California Sustainable Communities and Climate Protection Act of 2008, which requires each of the state's 18 metropolitan areas to reduce greenhouse gas emissions from cars and light trucks 7 percent per capita by 2020 and 15 percent by 2035.

Plan Bay Area aims to achieve the greenhouse gas reduction targets by requiring 78 percent of new housing and 62 percent of new jobs in the Bay Area through 2035 to be located within some 170 "priority development areas." These are areas typically accessible to mass transit, jobs, shopping and other services that have been identified and approved by cities or counties for future growth. Local jurisdictions that approve priority development areas will be rewarded with grant money.

Greenhouse gases

The plan was designed to cut greenhouse emissions by reducing automobile trips.

Soon after Plan Bay Area was approved a year ago, **Communities for a Better Environment** and the Sierra Club sued the Metropolitan Transportation Commission and the Association of Bay Area Governments, the two lead agencies overseeing development of the plan.

"Our over-arching concern was the plan was not set up to work the way it was supposed to," said Irene Gutierrez of Earthjustice, a nonprofit representing the environmental groups. "We were looking at the environmental reporting on the plan, and it looked like greenhouse gases were going to go up."

Gutierrez said her clients were also worried that some of the priority development areas identified in the plan lacked access to transit lines and could be threatened by sea-level rise.

"We were concerned these areas wouldn't be sustainable in the long term," Gutierrez said.

She said the settlement requires the agencies to "more honestly account" for the plan's effects on greenhouse gas emissions; provide the public with information on how the priority development areas will be able to grow sustainably into the future; and examine how freight movement in PDAs may harm people living there.

Ken Moy, legal counsel for ABAG, said under the agreement the additional analysis will be provided when the plan is updated in 2017.

Proud of plan

"We feel proud of the work we did," Moy said. "But in the update there is always room for improvement. We are required under the law to update this plan every four years, so this is an ongoing process."

Susan Kirsch, one of the co-founders of Citizen Marin, a vocal critic of Plan Bay Area, sees significance in the settlement's requirement that the agencies provide a more accurate account of the plan's effect on greenhouse gas production.

"It implies that what we've been dealing with, as many of us have claimed, are patterns of deceit," Kirsch said.

Regarding the concern cited in the suit that people living in the PDAs would suffer due to freight movement, Kirsch said, "It underscores so much of the way that ABAG and MTC operate, kind of like bullies on the playground. There is a kind of predator mentality in dealing with the most vulnerable."

Appeases critics?

But David Edmondson, one of the co-founders of Coalition for a Livable Marin, said many of the issues raised in the lawsuit resulted due to the regional agencies' eagerness to appease groups that, like Citizen Marin, oppose the idea of denser housing along transportation corridors.

Edmondson noted that the environmental impact report prepared for Plan Bay Area contained an alternative that would have reduced greenhouse gas production more than the alternative that was adopted. This "environment, equity and jobs" alternative called for increased transit service to historically disadvantaged communities to be paid for with higher bridge tolls and a new "vehicle miles traveled," or VMT, tax.

"MTC and ABAG decided to go with a weaker plan that satisfied the political right in the Bay Area, which wanted to sprawl a little bit more and wanted more car investment," Edmondson said.

Gutierrez said the lawsuit shouldn't be misconstrued as an attack on the basic idea behind Plan Bay Area.

"Our clients very much feel there is a role for regional planning," Gutierrez said. "It just needs to be done well, and it needs to be transparent so the public really knows what is going on." ----
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