

# **Bond Case Briefs**

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## **ENVIRONMENTAL - CALIFORNIA**

### **California Clean Energy Committee v. City of San Jose**

**Court of Appeal, Sixth District, California - September 30, 2013 - Not Reported in Cal.Rptr.3d - 2013 WL 5434129**

California Clean Energy Committee (CCEC) appealed from a trial court's judgment in favor of respondent City of San Jose (City). CCEC filed a petition for writ of mandate challenging City's certification and approval of an environmental impact report (EIR) analyzing the potential environmental effects of a proposed update to City's general plan, titled "Envision San Jose 2040 General Plan" prepared pursuant to the California Environmental Quality Act (CEQA). The trial court granted summary judgment in City's favor, after finding that CCEC failed to exhaust its administrative remedies, as no administrative appeal was filed from City's planning commission's certification of the final EIR.

The Court of Appeal concluded that the EIR was not properly certified by the planning commission, as the planning commission could not be delegated the duty to certify a final EIR given that it is not a decisionmaking body with respect to the Envision San Jose project. As the EIR was not lawfully certified by the planning commission, no administrative appeal need be taken to exhaust administrative remedies.