

Court of Appeal Again Rules that the Department of General Services Failed to Comply with State Law Regarding the Capitol Annex Project

Sacramento, Calif. (April 23, 2024) – The Third District Court of Appeal has issued a second unanimous ruling in favor of appellant Save the Capitol, Save the Trees, an environmental and preservation group, reversing a decision of the Sacramento Superior Court regarding the State Capitol Annex Project. To view:

https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=3&doc_id=2881136&doc_no=C100160&request_token=NilwLSEnXkw7W1BdSCJdXE5IQEg6UTxflyJeQzxTMCAgCg%3D%3D

In January 2023 the appellate court’s published decision in *Save Our Capitol! v. Department of General Services* held that the Annex project as approved would unlawfully impact the historic State Capitol Complex in multiple respects, in violation of mandates of the California Environmental Quality Act (CEQA).

In response to the *Save Our Capitol* ruling, the Sacramento Superior Court issued a peremptory writ (a court order) that allowed demolition of the historic Annex building — but prohibits new construction of Annex project components, including the new Annex building, pending compliance with the writ. The Department of General Services (DGS) and the Joint Rules Committee were ordered to conduct a revised environmental impact report (EIR) process to address and cure the many violations of CEQA delineated in the *Save Our Capitol* ruling, with particular focus on adverse impacts to the historic Capitol by both a proposed *glass-clad Annex Building* and a visitor’s center on the historic west Capitol lawn.

In September 2023, DGS completed a revised Annex EIR process and reapproved an all-glass Annex in the face of significant impacts and substantial expert criticism. DGS then requested that the Superior Court discharge the peremptory writ as to the entire Annex project, including the glass Annex, the visitor’s center, and the new parking garage, to conclude the case and allow construction of the Annex.

Save the Capitol, Save the Trees, a co-litigant in *Save Our Capitol*, objected to discharge of the writ. Accepting the EIR process as adequate would allow DGS to pursue construction without any judicial consideration of whether DGS had complied with the important directives in the appellate ruling. After the Superior Court granted discharge of the writ, Save the Capitol, Save the Trees appealed. The Court of Appeal reversed and again remanded the case last week, holding in part:

- “The peremptory writ required DGS to certify a revised EIR consistent with this court’s opinion before the writ could be discharged.”
- “The judgment is reversed and the matter is remanded to the trial court for further proceedings. As to the approved project components, the trial court must determine that the revised EIR is consistent with Save Our Capitol before discharging the peremptory writ of mandate.”

The next step will be the issuance of a second judgment on remand by the Superior Court that will set aside its order discharging the writ. The court will then adjudicate the contested legality of the revised EIR as to the one approved project component, the glass-clad Annex building.

Preservation architect Milford Wayne Donaldson, FAIA, former California State Historic Preservation Officer and former Chair of the National Advisory Council on Historic Preservation commented: "I know that those in Sacramento and throughout California will be grateful for the appeal's enforcement of environmental protections for our historic State Capitol. This is the most important historic public building complex in California. Compliance with law would allow construction of the new Annex building, altered with compatible (non-glass) materials, without delay, and relocation of the planned visitor's center away from the historic west lawn."

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