



PACIFIC LEGAL FOUNDATION

Summary: This policy is designed to increase the production of housing to address statewide housing shortages without interfering with local government control of permitting decisions. It blocks third-party objectors from suing to stop an approved development permit unless the objector has an adjacent property and can prove by clear and convincing evidence that the approved development will create a particularized harm to the objector. The objector who sues and loses pays the attorney's fees and costs for the builder/developer.

Third-Party Challenges to Development Permits Act

Section 1: Definitions

(a) For the purposes of this Act:

- (1) "Development Permit" means any authorization, license, or approval issued by the relevant authority for the construction, alteration, or use of a property, including but not limited to building permits, zoning permits, land use permits, plat approvals, lot splits, infrastructure approvals, and environmental permits.
- (2) "Relevant Authority" refers to the governmental entity or department responsible for issuing development permits within the jurisdiction.
- (3) "Third-Party" refers to any individual, organization, or entity other than the permit applicant or relevant authority.
- (4) "Common Law Nuisance" means a substantial and unreasonable interference with the use and enjoyment of neighboring property, as defined by applicable common law principles.
- (5) "Expedited Review Process" refers to a streamlined procedure established by the governing body to resolve disputes related to development permits in a timely and efficient manner, which may include accelerated court proceedings, mediation, or alternative dispute resolution mechanisms.

Section 2: Presumption of Validity

- (a) Development permits issued by the relevant authority shall be presumed valid and enforceable unless proven otherwise through a legal challenge.

Section 3: Standing of Adjacent Property Owners



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- (a) Only property owners: (1) with property physically adjacent to the property that is the subject of the development permit; and (2) that can demonstrate a concrete and particularized harm to their physically adjacent property shall have standing to challenge development permits.

Section 4: Limitation on Third-Party Challenges

- (a) Notwithstanding any other provision of law, third-party challenges by those with standing pursuant to Section 3 of this Act to development permits shall be limited to instances where the proposed development presents a clear and immediate threat to health, safety, or welfare, or constitutes a common law nuisance.

Section 5: Burden of Proof

- (a) Parties challenging development permits pursuant to this statute bear the burden of proof by clear and convincing evidence. Evidence may include expert testimony, scientific data, or other relevant information substantiating the alleged harms, but may not include anecdotal evidence.

Section 6: Expedited Review Process

- (a) To minimize delays and uncertainty associated with legal challenges to development permits, the relevant authority shall establish an expedited review process for resolving disputes within 60 days.

Section 7: Transparency and Accountability

- (a) Relevant authorities responsible for issuing building permits shall maintain transparency and accountability in their decision-making processes, providing clear rationale for permit decisions.

Section 8: Right to Appeal

- (a) A property owner whose permit is denied because of a third-party challenge pursuant to this Act may immediately appeal the decision to the relevant court of appeal.

Section 9: Attorney's Fees



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- (a) If a third-party challenger to a permit loses the challenge, then the challenger shall pay the permit-holder for all attorney's fees and expenses that the permit-holder incurs because of the challenge. A permit holder shall not be liable for attorneys' fees or costs in favor of a third-party challenger if the third-party challenger wins a challenge pursuant to this statute.

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