



What is the Permit Streamlining Act – and how can it help?

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The Permit Streamlining Act, California Government Code § 65920 et seq, was enacted in 1977 in order to expedite the processing of permits for development projects by imposing time limits within which state and local government agencies must either approve or disapprove permits. Once a completed permit application is on file the agency has 30 days to inform the applicant whether the application is complete. Government Code § 65943; 14 California Code of Regulations §§ 15060(a), 15101. If the agency does not so inform the applicant within the 30-day period, the application is "deemed complete" (if the application included the statement that it is an application for a development project). Government Code § 65943.

"Deemed Approved"

If a local agency fails to approve or disapprove the permit within the time limits specified, the permit is subject to being "deemed approved." Government Code § 65956(b). A deemed-approved permit confers the same privileges and entitlements as a regularly issued permit. *Ciani v. San Diego Trust & Savings Commission*, 233 Cal. App. 3d 1604, 1613

A permit may not be deemed approved until the agency is provided with notice of the applicant's intent to invoke the Act, and an opportunity to hold a public hearing to decide whether to approve or deny the project. Further, a permit may not be deemed approved until the agency has complied with CEQA (if applicable). Finally, the Permit Streamlining Act does not apply to legislative land use decisions or to ministerial permits. (Note, on-premise signs are categorically exempt under CEQA).

State of Denial

If a local legislative body votes to deny a project within the time limits but directs staff to return with a resolution on a date that falls outside of the PSA time limits, the application is still timely denied and does not result in a deemed-approved project. The PSA does not require that a denial be absolutely final in order to be timely. *El Dorado Palm Springs v. City of Palm Springs*, 96 Cal. App. 4th 1153, 118

Restarting the Clock

A new 30-day period begins with each re-submission of an application. Government Code § 65943. At one time, some agencies had required that applicants waive, or agree to extend, the time limits. That practice is now prohibited. Government Code § 65940.5; Public Resources Code §§ 21100.2, 21151.5.

Agencies are required to make lists available to the public that specify in detail the criteria required for submitting an application. Government Code § 65940. Although the criteria may be revised, revisions generally apply new, not pending, applications. Government Code § 65942.

Agencies may not require applicants to submit with the initial application all of the information required to take final action on the project. Government Code § 65944.

“Development Projects” Only

The PSA applies only to "development projects" as defined in Government Code § 65928

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"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

The Permit Streamlining Act does not apply to the following:

- Legislative land use decisions, such as amendments to the zoning ordinance or general plan.
- The approval or disapproval of final subdivision maps. Government Code § 65927.
- Permits for ministerial projects (Government Code § 65928), i.e., projects which do not involve the exercise of governmental discretion.
- Administrative appeals. Government Code § 65922(b).

Time Extensions and Limits

The PSA time limits may be extended once for up to 90 days upon the mutual consent of the agency and the applicant. Government Code § 65957.

The time limits assume that the agency is the "lead agency" – i.e., the agency principally responsible for approving the project. Public Resources Code § 21067; Government Code § 65929. Different rules apply if the agency is a "responsible agency." A responsible agency is any agency other than the lead agency which is responsible for carrying out or approving the project. Public Resources Code § 21069; Government Code § 65933. Responsible agencies are required to approve or disapprove a development project that has been approved by the lead agency within 180 days from the later of (1) the date on which the lead agency approved the project or (2) the date on which the application for the project is accepted as complete by the responsible agency. Government Code § 65952.

PSA Procedures

While the PSA declares a permit is deemed approved if the agency fails to take action within the Act's time limits, deemed-approved status may be conferred only if "public notice required by law has occurred." Government Code § 65956(b) (see below). The purpose of the notice is to provide the agency with a final opportunity to hold a public hearing and actually make a decision on the project, thereby avoiding the effect of a deemed-approved permit.

The applicant may provide the public notice required by law by giving 7 days advance notice to the agency of intent to do so. The public notice may not be provided earlier than 60 days from the expiration of the time limits set forth in Government Code § 65950 (or for responsible agencies, the time limits set forth in Government Code § 65952). If the applicant provides notice, the time limits are extended to 60 days after such notice is provided. Government Code § 65956(b).

Alternatively, the applicant can seek relief by obtaining a court order (Code of Civil Procedure §1085) directing the agency to provide the public notice required by law or provide the public hearing, or both. There is no requirement that the public notice required by law be included in the normal public notices provided by the agency for project approvals. *Mahon v. San Mateo County*, 139 Cal. App. 4th 812.

PSA is Not a Panacea

While contractors and applicants would surely wish projects to be deemed approved due to agency failure to act timely, unless the procedures are carefully followed and proper notice given, it's unlikely that a job will breeze through without challenge under the Act. However, if you're operating in a city known for notorious delays in issuing permits, it might be worthwhile to invoke the PSA.

Government Code 65956

(a) If any provision of law requires the lead agency or responsible agency to provide public notice of the development project or to hold a public hearing, or both, on the development project and the agency has not provided the public notice or held the hearing, or both, at least 60 days prior to the expiration of the time limits established by Sections 65950 and 65952, the applicant or his or her representative may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to provide the public notice or hold the hearing, or both, and the court shall give the proceedings preference over all other civil actions or proceedings, except older matters of the same character.

(b) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, the failure to act shall be deemed approval of the permit application for the development project. However, the permit shall be deemed approved only if the public notice required by law has occurred. If the applicant has provided seven days advance notice to the permitting agency of the intent to provide public notice, then no earlier than 60 days from the expiration of the time limits established by Sections 65950 and 65952, an applicant may provide the required public notice using the distribution information provided pursuant to Section 65941.5. If the applicant chooses to provide public notice, that notice shall include a description of the proposed development substantially similar to the descriptions which are commonly used in public notices by the permitting agency, the location of the proposed development, the permit application number, the name and address of the permitting agency, and a statement that the project shall be deemed approved if the permitting agency has not acted within 60 days. If the applicant has provided the public notice required by this section, the time limit for action by the permitting agency shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the permitting agency shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65944, inclusive, may constitute grounds for disapproving a development project.

(d) Nothing in this section shall diminish the permitting agency's legal responsibility to provide, where applicable, public notice and hearing before acting on a permit application.