Today I continue my series of blog posts on the CEQA lawsuit over UC Berkeley's enrollment. My first post provided an introduction to the case and its background; my second post examined the risks of expanding environmental review to small-scale, individual decisions like the enrollment decisions at issue in this case. Today's post will address the second major issue, addressed in the superior court opinion, examining whether UC Berkeley adequately analyzed the impacts of increased enrollment on the environment. Here I'll ask whether expanding environmental review analyses to consider socioeconomic impacts will really advance more equitable application of environmental law.

The court held that the university had failed to analyze the impacts of enrollment on housing – most importantly that the university failed to "consider whether its past increase in student enrollment caused population displacement" (p.15) by forcing residents out of the area. In reaching this conclusion, the court heavily relied on CEQA statutory language and implementing guidelines that emphasize that the impacts of projects in inducing population and economic growth must be considered.

The CEQA provisions and guidelines that the court referenced are focused on the possibility that one development project might promote or cause further development projects. For instance, the classic example is the construction of a highway interchange that then facilitates construction of commercial and residential projects in the area. That again has some significant differences from the question of population displacement – which is not about the construction of physical projects, but instead about where people live.

This is an extension of CEQA analysis into areas that could be characterized as more about socioeconomic impacts than physical impacts on the environment. CEQA has been understood by the courts as not addressing socioeconomic impacts of a project, except to the extent that those socioeconomic impacts themselves have physical impacts on the environment. (The most common fact pattern of this latter situation has been the construction of big box retail facilities that prompt the closure of smaller businesses in urban downtown areas, which in turn causes blight in those downtown areas.) However, the connection in this context seems more remote – increases in students prompt other individuals to leave or move elsewhere (p. 13-14) (The city and the plaintiffs point to impacts on public services and noise from increased enrollment, but those impacts are covered by other provisions of CEQA analysis that I won't address in this blog post.) The plaintiffs specifically pointed to "gentrification" impacts from increased student enrollment.

Would expanding CEQA to include socioeconomic impacts be a good change to make? New York City already requires that analysis for the environmental review processes it applies to city projects. Theoretically, such a requirement would seem to empower historically disempowered neighborhoods and communities to use environmental review to challenge greedy, out-of-town developers who drive gentrification.

But it’s not clear at all that changing the law to incorporate socioeconomic impacts analysis in CEQA would actually benefit disempowered communities in California. In research I have helped work on about how CEQA and local land-use law is implemented for housing projects in California, we have found evidence that litigation and administrative appeals are more common in wealthier neighborhoods fighting projects. This suggests it is more likely that more privileged communities will use socioeconomic impact analysis challenges under CEQA to stop needed housing projects, housing that is needed to resolve the state’s dire housing crisis.