

Competent Substantial Evidence

EXPLAINED:

A Practical Guide for Planners

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In a high stakes quasi-judicial hearing, a local government's land use decision is only as strong as the record that supports it. While planners may brush off the term "competent substantial evidence" ("CSE") as a technicality meant for attorneys, competent substantial evidence is the fundamental standard of proof which dictates whether a local government's land use decision survives a judicial appeal. If a local government's quasi-judicial decision is challenged in court, that reviewing court does not reweigh the evidence; rather, the court merely looks to whether there is any competent substantial evidence to support the decision.

Competent substantial evidence requires evidence that is relevant, material, and of such quality that a reasonable mind might accept it as adequate to support the findings. The evidence cannot be generic; it must be specific to the situation/application at hand and reflective of actual knowledge regarding the local criteria. Professional planning staff reports, recommendations, and expert planner testimony all constitute competent substantial evidence when grounded in professional experience and concrete factual analysis.

To maintain a legally defensible record, planners must understand what qualifies as competent substantial evidence.

WHAT CONSTITUTES COMPETENT SUBSTANTIAL EVIDENCE:

FACT-BASED: Rooted in specific, verifiable data points, such as "the project meets density limitations pursuant to code criteria."

EXPERTLY GROUNDED: Derived from professional expertise and experience relevant to the subject matter.

REASONED AND SUPPORTED: Accompanied by a discernible, factually based chain of reasoning that connects the analysis to the local government's code criteria.

WHAT IS NOT COMPETENT SUBSTANTIAL EVIDENCE:

GENERALIZED, CONCLUSORY OPINIONS: Vague assertions of a project's merits without data or code criteria to support the claim, such as "the project is incompatible."

SPECULATION: Speculative testimony regarding technical matters without the professional credentials to support it, such as, "the project will increase traffic" or "reduce property values."

When testifying in a quasi-judicial hearing, a planner acts as an expert witness once they have placed their credentials on the

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KEY TAKEAWAYS

- Explains what CSE is, what qualifies as CSE, and what does not.

[COMPETENT] SUBSTANTIAL EVIDENCE

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record; however, an expert who opines on a subject matter outside their wheelhouse does not provide competent substantial evidence.

For instance, a planner who lacks formal training in traffic engineering should not opine as to possible traffic issues, as those statements will be deemed as speculation and will not rise to the level of competent substantial evidence. When testifying or drafting a report, guesswork cannot be disguised as expert opinion. Each piece of a planner's report and testimony must tie its conclusions to specific facts, criteria, and professional analysis to rise to the level of competent substantial evidence.

Ultimately, mastering competent substantial evidence is about providing specific, articulable facts rather than bare conclusions. A planner who understands the boundaries of competent substantial

evidence builds a legally defensible record when they submit a report or testify because they incorporate specific, fact-based evidence into every conclusion. When planners fully understand competent substantial evidence standards, they protect their communities and clients from costly litigation and ensure that land use decisions are not only defensible but driven by accurate data and law.

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