



Land Use Litigation Update

burke

BURKE, WILLIAMS & SORENSEN, LLP

***Cox v. City of Oakland* (2025) 17 Cal.5th 362**

Takeaway: Conveyance of lots prior to 1972 SMA amendments – together but with separate descriptions – does not create separate parcels

Facts:

- Three adjacent lots were each described in legal descriptions on pre-1972 deed conveying land
- Owner of two lots claimed conveyance created separate parcels

Analysis & Holdings:

- Pre-1972 documents referencing separate lots – whether by lot number or metes and bounds – do not create separate parcels unless (i) lot was conveyed separately, and (ii) no applicable subdivision ordinance applied
- Affirms *Gardner v. County of Sonoma* (2003) 29 Cal.4th 990

Carmichael v. Cafe Sevilla of Riverside, Inc.

(2025) 108 Cal.App.5th 292

Takeway: CUP is not a statute, ordinance, or regulation

Facts:

- Shooting breaks out at defendant nightclub
- Plaintiffs assert nightclub acted negligently *per se* by violating CUP condition requiring nightclub not to create public nuisance

Analysis & Holdings:

- CUP is not a statute, ordinance, or regulation; and
- Condition intended to prevent impacts to neighbors / community, not to nightclub's patrons

***Meinhardt v. City of Sunnyvale* (2024) 16 Cal.5th 643**

Takeway: Formal judgment required to trigger deadline to appeal decision on a petition for writ of mandate

Facts:

- Superior court filed and served a dispositive order denying petition
- Court subsequently entered judgment

Analysis & Holdings:

- S.Ct. previously held that a dispositive decision on a writ claim is not appealable where other cause(s) of action still pending
- Courts were split whether a dispositive decision was appealable where no other cause of action was still pending
- Held: Formal judgment required to trigger deadline to appeal

***Thomas v. County of Humboldt* (9th Cir. 2024) 124 F.4th 1179**

Takeaway: High fines for zoning code violations may violate Eighth Amd's Excessive Fines Clause

Facts:

- County Code authorized daily fines of up to \$10,000
- Fines accrued during admin appeal

Analysis & Holdings:

- Excessive Fines Clause applies to local fines, penalties, and fees
- Plaintiffs alleged plausible Section 1983 claim

California Resources Production Corp. v. City of Antioch **(2024) 107 Cal.App.5th 481**

Takeaway: Not a violation of a Franchise Act of 1937 for city to decline to extend franchise for oil, gas, electric, or water pipeline utilities

Facts:

- City declined to extend term of franchise for pipeline in RoW
- Franchisee alleged violations of Franchise Act, EP, takings, and so on

Analysis & Holdings:

- Class-of-one equal protection claim failed to state a claim
- Franchisee failed to allege violation of ministerial duty under Franchise Act
 - Findings not required for decisions subject to CCP 1085 writ claims
 - Motivations of decisionmakers irrelevant

Santa Clarita Organization for Planning v. County of Los Angeles (2024) 105 Cal.App.5th 1143

Takeway: SMA's 90-day S/L applies to claims brought under the SMA, including CEQA-related claims, but not claims exclusive to CEQA

Facts:

- County approved TM and CUP for housing project
- Plaintiff alleged violations of SMA and CEQA
- Plaintiff sued, but did not serve, complaint w/in 90 days

Analysis & Holdings:

- SMA's S/L requires suit to be filed *and served* w/in 90 days
- Challenge to TM conditions, including MMs, barred by SMA S/L
- CEQA's S/L applied to claims exclusively related to CEQA-

Yes In My Back Yard v. City of Culver City

(2023) 96 Cal.App.5th 1103

Takeway: reduction in allowable square footage for new homes in single-family zones violates the Housing Crisis Act of 2019 (SB 330)

Facts:

- 2020 ordinance limited FAR for SFRs, to prevention “mansionization”
- YIMBY alleged violation of HCA / SB 330 (Gov. Code § 66300 et seq.)

Analysis & Holdings:

- HCA unambiguously prohibits reductions in height, density, FAR
- Exemption for regulations intended to facilitate affordable housing inapplicable

Casa Mira Homeowners Assn. v. California Coastal Commission (2024) 107 Cal.App.5th 370

Takeway: “Existing structures” in context of CA Coastal Act refers to structures that existed before the Act's effective date of January 1, 1977, not structures existing at time of application for coastal development permit

Facts:

- CCC approved CDP for seawall to protect apartments built in 1972, but denied CDP for extension to protect condos and sewer built in 1984
- Superior Court granted HOA's writ petition challenging CDP denial

Analysis & Holdings:

- CCC properly denied CDP for seawall to protect post-1976 construction

Ohio House, LLC v. City of Costa Mesa **(9th Cir., Apr. 24, 2025) __ F.4th __, 2024 WL 5668044**

Takeway: City does not violate the federal FHA or CA FEHA by adopting zoning regulations that require sober living homes to be located a specified distance away from one another

Facts:

- Ordinance banned group homes, with exceptions for group homes for recovering addicts – subject to separation and use permit req'ts
- Sober-home operator alleged fed'l FHA and state FEHA claims

Analysis & Holdings:

- Plaintiff made prima facie showing of disparate treatment
- But City met its burden to show regulations benefitted disabled persons



Questions?

burke

BURKE, WILLIAMS & SORENSON, LLP