Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & LAND USE - CALIFORNIA

Hernandez v. Town of Apple Valley

Court of Appeal, Fourth District, Division 2, California - January 5, 2017 - Cal.Rptr.3d - 2017 WL 56338 - 2017 Daily Journal D.A.R. 97

Objector brought action against town for declaratory, injunctive, and writ relief alleging violations of the Ralph M. Brown Act for actions taken at the town's council meeting, and alleging that the initiative approving a commercial development named a "private corporation to perform any function or to have any power or duty" in violation of the state constitution.

The Superior Court granted summary judgment for objector. Town and developer appealed.

The Court of Appeal held that:

- Town council violated the Brown Act in omitting from the council agenda the developer's gift of funds for the election, but
- Initiative did not improperly name a private corporation to receive a "power or duty."

Town council's decision to put an initiative approving a commercial development on a special election ballot violated the Ralph M. Brown Act's requirement that "each item of business" must be on the agenda, where the agenda and the attached agenda packet failed to state that the town would consider a memorandum of understanding (MOU) to accept a gift from the developer in order to pay for the special election, and it was conceivable the gift was a major factor in the decision to send the matter to the electorate.

A ballot initiative approving a retail development did not violate the provision of the state constitution prohibiting naming any "private corporation to perform any function or to have any power or duty," even though the subject property was owned by a single developer that was a private corporation and was familiar to the electorate, where the initiative did not specify the name of the developer, and the initiative would grant the same rights to any new developer or owner if the property was sold.