

Bond Case Briefs

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Kennedy Commission v. City of Huntington Beach

Court of Appeal, Fourth District, Division 2, California - October 31, 2017 - Cal.Rptr.3d - 2017 WL 4929913

Objectors petitioned for writ of mandate against city and city council, challenging city's amendment to beach corridor plan.

The Superior Court invalidated amendment. City petitioned for writ of supersedeas and appealed.

The Court of Appeal held that:

- Court of Appeal would exercise discretion to take judicial notice of city charter documents despite city's failure to provide such documents to trial court;
- City's charter did not adopt provision of Government Code precluding specific plans inconsistent with general plan, supporting finding that provision did not apply to city due to city's status as charter city; and
- City also did not adopt such provision through ordinance.

Court of Appeal would exercise its discretion to take judicial notice of charter documents showing that city was a charter city and that population of city was less than 2,000,000, on appeal of trial court judgment invalidating city's amended beach corridor plan based on objectors' argument that plan did not comply with Housing Element Law, even though such documents were not provided to trial court and city was arguing for first time on appeal that sections of Housing Element Law did not apply to city as it was a charter city, where objectors had chance to object to request for judicial notice and had responded to the claim in a brief.

City's charter did not adopt provision of Government Code precluding specific plans inconsistent with general plan, and therefore provision did not apply to city due to city's status as charter city, where charter granted city power to make and enforce all laws in respect to municipal affairs subject only to other stated restrictions.

City ordinance implementing beach corridor plan did not constitute adoption of Government Code precluding specific plans inconsistent with general plan, and therefore provision did not apply to city due to city's status as charter city, where city did not explicitly state that any specific plan that was not consistent with general plan was void, and ordinance did not mandate that conflicting specific plan could not be adopted.