

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - CALIFORNIA

La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles

Court of Appeal, Second District, Division 2, California - May 3, 2018 - 2018 WL 2057465 - 18 Cal. Daily Op. Serv. 4145

After city council granted variances for corporation to build retail store that did not comply with requirements of municipal code and neighborhood area plan, community associations filed petitions for writ of mandate against city, naming corporation as real party in interest, alleging that construction project violated zoning laws and California Environmental Quality Act (CEQA).

The Superior Court granted writ petitions in part and entered judgment in favor of community associations on writs invalidating six of the eight municipal code variances, enjoining any actions in furtherance of those variances, immediately restraining all construction activities, and authorizing community associations to seek attorney fees. City council and corporation appealed. While appeals were pending, council amended neighborhood area plan to permit construction of retail store. The Court of Appeal dismissed appeal as moot. Community associations moved for attorney fees for prevailing on their challenges to variances. The Superior Court granted community organizations attorney fees. Corporation and city council filed notices of appeal from each attorney fee award, and appeals were consolidated.

The Court of Appeal held that:

- Trial court did not abuse its discretion in concluding that associations were successful parties, as required to be eligible for attorney fees;
- Trial court did not abuse its discretion in concluding that associations' lawsuit conferred a significant benefit on the general public or large class of persons; and
- Change in zoning laws following judgment did not preclude associations from obtaining award of fees.

Trial court did not abuse its discretion in concluding that community associations were successful parties, as required to be eligible for attorney fees under statute permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest, in proceedings challenging city council's grant of variances from neighborhood area plan zoning requirements in order to permit corporation to build retail store; associations sought to vacate variances to vindicate their interest in ensuring that city's decisions were in conformity with municipal code's zoning requirements, associations achieved their objective when many of the variances were invalidated for noncompliance with code, and lawsuit motivated city to amend neighborhood area plan.

Trial court did not abuse its discretion in concluding that community associations' suit challenging city council's grant of variances from neighborhood area plan zoning requirements in order to permit corporation to build retail store conferred significant benefit on the general public or large class of persons, as would support award of attorney fees in favor of associations under statute

permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest; city was required to adhere to municipal code's legal requirements for granting variances as a result of lawsuit, which furthered a significant public policy, and city residents benefited from ruling that held city council's zoning decisions to the letter and spirit of the code.

Change in zoning law that permitted corporation to build retail store following judgment in favor of community associations in proceedings challenging city council's grant of variances from neighborhood area plan that allowed corporation to build store did not preclude associations from obtaining attorney fees under statute permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest, even though validity of project to build store under new zoning law was still pending; petitions were not aimed at stopping project, showing that associations put entire dispute to rest was not required to obtain fees, and denying fees because associations had yet to succeed under law as it might be amended would have led to absurd results.