

Bond Case Briefs

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Oakland Bulk & Oversized Terminal, LLC v. City of Oakland

United States District Court, N.D. California - May 15, 2018 - F.Supp.3d - 2018 WL 2210680

Developer of bulk cargo shipping terminal brought action against city alleging, inter alia, that resolution adopted by city council applying coal ordinance to terminal breached development agreement, which required substantial evidence that failure to apply ordinance would pose substantial danger to health or safety of city's residents for any postdated regulation to apply to terminal.

Environmental advocacy groups intervened as defendants. Following bench trial, findings of fact and conclusions of law were issued.

The District Court held that city council resolution breached development agreement.

City council resolution applying new coal ordinance to bulk cargo shipping terminal breached development agreement, which required substantial evidence that failure to apply ordinance would pose substantial danger to health or safety of city's residents for any regulation adopted after execution of agreement to apply to terminal; emissions estimates in consultant's report to city council on health and safety effects of transporting coal through terminal excluded developer's mitigation measures, including use of rail car covers and surfactants, emissions estimates were based on misapplication of federal guidance and mistaken assumption about type of coal that would be transported, and estimates did not consider requirements placed on terminal as part of air district permitting process.