

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - CALIFORNIA

Aids Healthcare Foundation v. City of Los Angeles

Court of Appeal, Second District, Division 3, California - June 15, 2020 - Cal.Rptr.3d - 2020 WL 3168551 - 20 Cal. Daily Op. Serv. 5710 - 2020 Daily Journal D.A.R. 5823

Affordable housing organization brought action against city for violations of federal Fair Housing Act (FHA) and state Fair Employment and Housing Act (FEHA), alleging four multi-use development projects approved by city had disparate impact on Black and Latino residents.

The Superior Court sustained demurrers by city and real parties in interest, which were projects' owners and developers, without leave to amend. Organization appealed.

The Court of Appeal held that:

- City's approval of development projects to revitalize area constituted policy or practice sufficient to support disparate-impact claims;
- City's policy was not artificial, arbitrary, or unnecessary barrier to fair housing;
- Halting development until city initiated measures to mitigate gentrification was not appropriate remedy for any violations of FHA and FEHA; and
- Organization failed to establish reasonable possibility defects in complaint could be amended.

City's approval of development projects to revitalize area constituted a policy or practice, as necessary to support disparate-impact discrimination claims under Fair Housing Act (FHA) and Fair Employment and Housing Act (FEHA), where city approved projects as part of its implementation of its existing land use policies, and approval process included debate in public hearings and written communications about what community benefits should be included as part of development agreements.

City's land use policies and their implementation, including through approval of development projects to revitalize area, did not affirmatively remove or prevent creation of fair housing in and of themselves, and, thus, city's policies were not artificial, arbitrary, and unnecessary barrier to fair housing, as necessary to support claims that policies had disparate racial impact in violation of Fair Housing Act (FHA) and Fair Employment and Housing Act (FEHA); any increase in rent prices resulting from projects would be caused by private landlords, not by city itself, and projects did not cause net loss of existing affordable housing units, but, rather, would either exist on currently-unoccupied sites or would increase number of affordable housing units on sites.

Halting development of housing projects until city's initiation of measures to mitigate effects of gentrification was not appropriate remedy for any disparate-impact violation of Fair Housing Act (FHA) or Fair Employment and Housing Act (FEHA) resulting from city's approval of housing projects; voiding city's approval of projects would not make affordable housing more available to racial minorities, and FHA and FEHA were not intended to impose new development policies on housing authorities, but, rather, to eliminate policies forming impermissible barriers to fair housing.

Affordable housing organization that brought action against city for violations of Fair Housing Act

(FHA) and Fair Employment and Housing Act (FEHA) failed to satisfy its burden, on appeal from decision sustaining demurrer without leave to appeal, that there was a reasonable possibility it could amend defects in complaint, where organization did not set forth specific factual allegations it would plead if amendment were allowed or legal authority showing viability of new or amended causes of action, but, rather, asked Court of Appeal to provide guidance as to what additional evidence might be required to support its disparate-impact claims, which constituted improper request for court to rewrite organization's complaint.