

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - CALIFORNIA

Lafayette Bollinger Development LLC v. Town of Moraga

Court of Appeal, First District, Division 1, California - July 19, 2023 - Cal.Rptr.3d - 2023 WL 4613300

Landowners petitioned for writ of mandate and brought other claims against town after they unsuccessfully sought to amend their property's "Study" land use designation in town's general plan in order to develop housing.

The Superior Court issued a peremptory writ of mandate requiring town to give the property a legally compliant land-use designation, but otherwise entered judgment for town, granted town's motion to strike and tax costs, and denied landowners' motion for attorney's fees. Landowners appealed, and town cross-appealed.

The Court of Appeal held that:

- Designation of landowners' property as "Study" in general plan did not substantially comply with statutory requirements;
- Town's failure to comply with general plan statute by identifying landowners' property as "Study" on general plan did not require town to approve landowners' application for housing project;
- Designation of landowners' property as "Study" on general plan was not a per se regulatory taking;
- Rejection of landowners' proposal to construct 85 houses on land designated as "Study" on general plan was not a regulatory taking;
- Delay in adopting a permanent land-use designation for landowners' property was rational in light of the property's unique aspects and thus did not violate equal protection
- Town's failure to give landowners' property a valid designation on general plan was not so outrageous as to violate substantive due process;
- Landowners were not the "prevailing party" and thus were not entitled to award of costs; and
- Attorney's fees under the private attorney general doctrine were not warranted.