

# **Bond Case Briefs**

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## **ZONING - CALIFORNIA**

### **Orange Citizens for Parks and Recreation v. Superior Court**

**Court of Appeal, Fourth District, Division 3, California - July 10, 2013 - Cal.Rptr.3d - 13 Cal. Daily Op. Serv. 7365**

The City of Orange City Council (the City Council) ultimately approved the construction of 39 homes on 51 acres of what had been a golf course (the Project). In connection therewith, the City Council adopted a resolution amending the City's general plan (General Plan Amendment). Among other things, the General Plan Amendment changed the existing designation of the Property on the general plan land use policy map (Policy Map) from "Open Space" to "Other Open Space & Low Density." In response to petitioning activity by its citizens, the City held a referendum on the General Plan Amendment. Voters defeated Measure FF, thereby nullifying the General Plan Amendment.

Plaintiffs (referred to collectively as Orange Citizens) asserted that the referendum essentially undid the City Council's approval of the Project.

Landowner, the City, and the City Council contended that the City's general plan since 1973 had always been to allow low density residential development on the Property. As repeatedly found by the City Council in connection with its approval of the Project, the City's general plan was already consistent with low-density residential units being constructed on the Property, even without the General Plan Amendment and notwithstanding the "Open Space" designation on the Policy Map. The General Plan Amendment simply corrected errors on the Policy Map (and in other documents). Regardless of whether these errors were corrected, the Project was consistent with the City's general plan. The trial court agreed with this position and the appeals court affirmed.

"In 1973, the City Council adopted the Orange Park Acres plan as part of the general plan, and in doing so designated the Property as open space or low density residential. In 1977, the City Council resolved to remove any language in the Orange Park Acres plan inaccurately suggesting it was a specific plan. In 2011, the City Council repeatedly found the Orange Park Acres plan was still part of the general plan and the Property's use designation still allowed low density residential development. The City may fix errors in the Orange Park Acres Plan and the Policy Map by reference to previously adopted resolutions of the City Council. The General Plan Amendment was nullified by the voters, but it does not matter with regard to the major points of contention."