

Bond Case Briefs

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Citizens for Open and Public Participation v. City of Montebello

Court of Appeal, Second District, Division 5, California - December 23, 2013 - Not Reported in Cal.Rptr.3d - 2013 WL 6786709

Citizens for Open and Public Participation (COPP) sought a writ of mandate and declaratory and injunctive relief against City of Montebello (City) and Montebello City Council (City Council), and sought declaratory and injunctive relief against Nick Pacheco (Pacheco).

COPP alleged that defendants failed to comply with various provisions of the Ralph M. Brown Act (Gov.Code, § 54950 et seq.1) (Brown Act) in connection with a November 16, 2009, special meeting of the City Council (Special Meeting) and closed session during which the City Council approved Agreement No. 2585, a “Professional Services Agreement” pursuant to which Pacheco was hired as a consultant to serve as Interim City Administrator. COPP further sought a declaration that Pacheco’s agreement with the City violated section 1090, and thus was void ab initio and should be deemed rescinded because Pacheco made or drafted the agreement while acting as the City’s Interim Assistant City Administrator and had a financial interest in the agreement.

The trial court first found certain violations of the Brown Act but denied COPP writ relief, and then, in a separate proceeding, denied COPP declaratory and injunctive relief and COPP’s request for attorney fees. COPP appeals from the denial of declaratory and injunctive relief and the denial of its request for attorney fees. The Court of Appeal affirmed.