

# **Bond Case Briefs**

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## **AFFORDABLE HOUSING - CALIFORNIA**

### **Tuthill v. City of San Buenaventura**

**Court of Appeal, Second District, Division 6, California - February 10, 2014 - Cal.Rptr.3d - 14 Cal. Daily Op. Serv. 1437**

Purchasers of low-income townhomes brought action against vendor and city, seeking declaratory relief and alleging negligence and negligence per se/violation of statutory duty based on developer's and city's failure to inform them that townhomes were subject to low income sales restrictions and that they overpaid for the units based on the restrictions. Following vendor's default, the Superior Court denied city's motion for judgment on the pleading, entered declaratory judgment, and awarded damages. City appealed.

The Court of Appeal held that:

- Court could not apply "equitable principles" to create an exception to public entity immunity;
- Statute requiring "the cooperation of all levels of government" to provide affordable housing for low- and moderate-income households was a general statement of public policy which did not impose any mandatory duty on city;
- City's amended affordable housing program, did not create a mandatory legal duty on city to prevent sales to ineligible households;
- Development agreement for townhome complex was not an "enactment" which could give rise to a mandatory duty on the part of city;
- Development agreement did not establish a mandatory duty on the part of city to protect ineligible buyers from purchasing income and price restricted properties;
- Public policy statement, affordable housing plan, and development agreement were not intended to protect purchasers from overpaying for low-income townhomes; and
- Purchasers did not vindicate an important right in their action against city and thus were not entitled to attorneys' fees based on the private attorney general doctrine.