

# **Bond Case Briefs**

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## **ZONING - CALIFORNIA**

### **Tower Lane Properties v. City of Los Angeles**

**Court of Appeal, Second District, Division 1, California - February 28, 2014 - Cal.Rptr.3d - 2014 WL 794334**

Builder filed petition for writ of mandate seeking to compel city to set aside grading permit condition, which stated no grading permit shall be issued for a hillside site larger than 60,000 square feet unless a “tentative tract map” has been approved by a city planner, on grounds that it did not propose to subdivide the land and thus no tentative tract map was required. The Superior Court granted the writ, and city appealed.

The Court of Appeal held that:

- Ordinance only applied to subdivisions, and
- Deference to city’s interpretation was unwarranted.

City ordinance stating that no grading permit shall be issued for a hillside site larger than 60,000 square feet “unless a tentative tract map has been approved therefor by the advisory agency” only applied to subdivisions and thus did not apply to builder’s request for grading permit for single hillside building site. Term “tract map” was a subdivision-specific term, purpose of the ordinance was to ensure that city could control grading work as part of subdivision approvals, and other ordinances extensively addressed hillside grading requirements and protected the integrity of hillsides and hillside communities.

The level of deference accorded to an agency’s interpretation of an ordinance turns on whether the agency has a comparative interpretive advantage over the courts, and also whether its interpretation is likely to be correct. Factors to consider in determining if an agency has a comparative advantage include whether the legal text to be interpreted is technical, obscure, complex, open-ended, or entwined with issues of fact, policy, and discretion.