

Bond Case Briefs

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Save Our Heritage Organisation v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - April 27, 2017 - Cal.Rptr.3d - 2017 WL 1505923 - 17 Cal. Daily Op. Serv. 4000

Project opponents brought action for writ of mandamus, seeking to contest city's approval of revitalization project for historic park area which involved converting park to pedestrian only use and re-routing traffic on new bridge bypass.

The Superior Court issued writ. City committee appealed, and opponents cross-appealed, and the Court of Appeal reversed in part. City committee filed motion for attorney's fees under the private attorney general statute. The Superior Court denied the motion, and city committee appealed.

The Court of Appeal held that:

- City committee's status as a project proponent did not categorically bar it from obtaining award of attorney's fees under the private attorney general doctrine, and
- Action was not detrimental to the public interest and thus did not warrant award of attorney's fees under the private attorney general doctrine.

City committee's status as a proponent of revitalization project for historic park area did not categorically bar it from obtaining award of attorney's fees from project opponents under the private attorney general statute as a "successful party" if it otherwise satisfied the requirements for such an award.

Project opponents' action contesting city's approval of revitalization project for historic park area, which involved converting park to pedestrian only use and re-routing traffic on new bridge bypass, was not detrimental to the public interest and thus did not warrant award of attorney's fees, under the private attorney general doctrine, to city committee as the successful party. Litigation did not seek to curtail or compromise important public rights or exonerate a violation of such rights, but sought to correct perceived violations of state and local environmental, historic preservation, and land use laws, and was precisely the type of enforcement action the doctrine sought to promote.