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DEVELOPMENT MITIGATION FEES - CALIFORNIA

North Murrieta Community, LLC v. City of Murrieta

Court of Appeal, Fourth District, Division 2, California - June 8, 2020 - Cal.Rptr.3d - 2020 WL 3046093 - 20 Cal. Daily Op. Serv. 5246 - 2020 Daily Journal D.A.R. 5465

Master developer of large city development, on its own behalf and as assignee of purchaser of subset of properties, filed petition for writ of mandate against council of local governments and city, seeking return of development mitigation fees newly imposed by ordinance, which developer contended exceeded those permissible under vesting tentative map.

The Superior Court dismissed petition, holding development agreement entered into by city and developer modified fees city could collect. Developer appealed.

The Court of Appeal held that development agreement extending term of vesting tentative map allowed city to impose new, generally applicable development mitigation fees.

Development agreement that city entered into with developer to extend term of vesting tentative map did not extend developer's right, under original vesting tentative map, to be free of additional fees, but, rather, contractually permitted city to impose new, generally applicable development mitigation fees; in development agreement, developer specifically agreed to allow city to impose new mitigation fees if existing fees were insufficient, development agreement was contractually binding on both city and developer, and altering protections of vesting tentative map, including mitigation fee protection, was explicit and critical part of development agreement.