

Bond Case Briefs

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Schmid v. City and County of San Francisco

Court of Appeal, First District, Division 4, California - February 1, 2021 - Cal.Rptr.3d - 2021 WL 321405 - 21 Cal. Daily Op. Serv. 1232 - 2021 Daily Journal D.A.R. 1164

Two taxpayers brought action against city and county and affiliated defendants, seeking to overturn an order authorizing removal of a bronze sculpture.

The Superior Court sustained a demurrer without leave to amend. Taxpayers appealed.

The Court of Appeal held that:

- Taxpayers failed to allege any threats, intimidation, or coercion, as required to support their claim that city and county and affiliated defendants violated the Tom Bane Civil Rights Act by removing sculpture;
- Taxpayer failed to allege facts supporting his claim that board of appeals' affirmance of commission's grant of a certificate of appropriateness to take down sculpture was motivated by discriminatory animus;
- Taxpayer failed to allege a viable basis for a claim that city and county, acting through its board of appeals, violated federal law pertaining to national historic district and grant money;
- Taxpayer failed to state a viable public nuisance claim;
- Taxpayer failed to exhaust administrative remedies under the California Environmental Quality Act (CEQA);
- Taxpayer did not have standing to enforce the terms of charitable trust; and
- Taxpayer's challenge to removal of sculpture prior to installation of plaque explaining the removal did not provide a basis for issuance of a traditional writ of mandate.