

Bond Case Briefs

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Felkay v. City of Santa Barbara

Court of Appeal, Second District, Division 6, California - March 18, 2021 - Cal.Rptr.3d - 2021 WL 1034275 - 21 Cal. Daily Op. Serv. 2454

Owner of oceanfront lot filed a consolidated petition for writ of administrative mandamus and complaint for inverse condemnation after city denied coastal development permit to construct residence on lot.

The Superior Court denied mandamus relief but entered judgment on jury award for lot owner and awarded attorney and expert fees. City appealed.

The Court of Appeal held that:

- Inverse condemnation claim was ripe;
- Any additional development proposals would have been futile and thus were not required;
- Lot owner sufficiently exhausted administrative remedies; and
- City was estopped from arguing that lot owner's failure to challenge on mandamus the city's decision declining to waive the requirements of coastal development policy precluded him from seeking damages for inverse condemnation.

Oceanfront landowner's inverse condemnation action against city was ripe, as city had rejected a coastal construction permit variance or waiver and "made plain" that no development would be permitted below the 127-foot elevation.

Owner of oceanfront lot was not required to submit a second development proposal prior to bringing regulatory takings claim against city following denial of coastal development permit, as any additional proposals would have been futile; city's expert noted there would be no point in going back to seek mitigation, as city made plain that it would not permit any development below the 127-foot elevation, and the limited area above that elevation was unbuildable.

Owner of oceanfront lot sufficiently exhausted administrative remedies as required prior to bringing regulatory takings claim based on city's denial of coastal development permit, where city planning commission and the city council were presented with the option to waive the full impact of their development policy by invoking California Coastal Act's waiver provision, but they declined to do so, and after the court found a taking occurred, it gave the city option to grant permit, and city again declined to issue a permit, with or without conditions, and chose to proceed to trial on damages.

City was estopped from arguing that oceanfront lot owner's failure to challenge on mandamus the city's decision declining to waive the requirements of coastal development policy pursuant to the California Coastal Act precluded him from seeking damages for inverse condemnation following denial of coastal development permit, where stipulation limited issues to be heard on mandamus and reserved inverse condemnation issues for trial, mandamus petition proceeded to a ruling, and the city proceeded to trial without objecting that a trial was barred by a deficiency in the mandamus proceedings; following the ruling on mandamus, and by virtue of the parties' stipulation, landowner

had the right to proceed to trial to determine if the city was liable for a taking, and, if so, a jury trial on the amount of compensation.