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BONDS - CALIFORNIA

Denny v. Arntz

Court of Appeal, First District, Division 2, California - May 12, 2021 - Not Reported in Cal.Rptr. - 2021 WL 1903766

On July 30, 2019, the San Francisco Board of Supervisors (Board) passed an ordinance providing for a special election on November 5, 2019, for the purpose of submitting to the city's voters "a proposition to incur bonded indebtedness not to exceed $600 million to finance the construction, development, acquisition, improvement, rehabilitation, preservation, and repair of affordable housing improvements, and related costs necessary or convenient for the foregoing purposes" and related matters."

The ordinance specified the official language to be included on the ballots as follows: " 'SAN FRANCISCO AFFORDABLE HOUSING BONDS. To finance the construction, development, acquisition, and preservation of housing affordable to extremely-low, low- and middle-income households through programs that will prioritize vulnerable populations such as San Francisco's working families, veterans, seniors, and persons with disabilities; to assist in the acquisition, rehabilitation, and preservation of existing affordable housing to prevent the displacement of residents; to repair and reconstruct distressed and dilapidated public housing developments and their underlying infrastructure; to assist the City's middle-income residents or workers in obtaining affordable rental or home ownership opportunities including down payment assistance and support for new construction of affordable housing for San Francisco Unified School District and City College of San Francisco employees; and to pay related costs; shall the City and County of San Francisco issue $600,000,000 in general obligation bonds with a duration of up to 30 years from the time of issuance, an estimated average tax rate of $0.019/$100 of assessed property value, and projected average annual revenues of $50,000,000, subject to independent citizen oversight and regular audits?'"

In November 2019, San Francisco voters passed Proposition A, San Francisco Affordable Housing Bonds. Citizen/Appellant brought an action to set aside the measure. His lawsuit alleged various deficiencies in the ballot materials as grounds for contesting the election pursuant to Elections Code section 16100, as well as a claim that the measure violated the California Constitution.

The Court of Appeal held that:

- Appellant had provided no reason to believe the ballot materials for Proposition A "were so inaccurate or misleading as to prevent the voters from making informed choices."
- The overriding purpose of the proposed bonds was to finance the development of affordable housing through new construction and rehabilitation of existing housing. This purpose involves acquisition and improvement of real property within the parameters of article XIIIA, section 1, subdivision (b), of our state Constitution, negating Appellant's argument that Proposition A authorized bonds for purposes other than "acquisition or improvement of real property."

The court also addressed procedural issues, including: res judicata, the inclusion of paid arguments in the voter information guide; maximum word count in the ballot description; whether housing

projects should be funded by revenue, as opposed to general obligation, bonds due to the payment of rents; judicial compensation; and jurisdiction.

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