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Save Lafayette Trees v. East Bay Regional Park District

Court of Appeal, First District, Division 3, California - June 30, 2021 - Cal.Rptr.3d - 2021 WL 2677595 - 21 Cal. Daily Op. Serv. 6705

Neighbors and interest group filed an amended petition/complaint seeking to vacate regional park district's approval of a memorandum of understanding with natural gas utility allowing for the removal of 245 trees from park district land.

The Superior Court sustained defendants' demurrers without leave to amend and dismissed the lawsuit, and neighbors and interest group appealed.

The Court of Appeal held that:

- Tolling agreement with regional park district regarding California Environmental Quality Act (CEQA) challenge was not binding on utility;
- Date on which CEQA's 180-day statute of limitations was triggered was date of public hearing;
- Statutory exception prohibiting a regional park district from interfering with public property that is either "owned or controlled" by city did not require park district to comply with municipal tree protection ordinance;
- Park district's board was not bound by district ordinance providing rules and regulations for the general public's use of district land; and
- District's actions were all quasi-legislative actions to which constitutional due process rights of notice and hearing were inapplicable.

Tolling agreement between petitioners and regional park district regarding petitioners' California Environmental Quality Act (CEQA) challenge to district's approval of a memorandum of understanding with natural gas utility regarding removal of trees on park land was not binding on utility; utility was both a necessary party and an indispensable party without whom the CEQA cause of action could not proceed, and utility, as a named party, was entitled to either assert or waive the statute of limitations defense to the amended petition/complaint.

Date on which 180-day statute of limitations under the California Environmental Quality Act (CEQA) was triggered for petitioners' challenge to park district's agreement to allow gas utility to remove 245 trees from park land was date of public hearing at which park district committed to a definite course of action by issuing a resolution authorizing the acceptance of funding from utility for the cost of the tree replacement and maintenance, even if meeting agenda and description of the resolution did not indicate that trees would be removed; memorandum of understanding, executed over the following two days, was consistent with the resolution and the project as outlined in the staff report submitted to the park district's board of directors.

Statutory exception prohibiting a regional park district from interfering with public property that is either "owned or controlled" by city did not require park district to comply with municipal tree protection ordinance before entering into memorandum of understanding with gas utility to allow gas utility to remove 245 trees from park land within city; rather, exception merely prohibited

district from taking control of city parks and recreational facilities, such as a municipal golf course.

Regional park district's board was not bound by district ordinance providing rules and regulations for the general public's use of district land, and thus ordinance did not apply to memorandum of understanding between park district and gas utility allowing utility to remove 245 trees from park district land; park district's administration of district land was subject to separate "Operating Guidelines."

Actions of regional park district's board of directors in holding a public hearing, issuing a resolution, and entering into a memorandum of understanding with gas utility allowing utility to remove 245 trees from park district land were all quasi-legislative actions, not quasi-adjudicatory ones, to which constitutional due process rights of notice and hearing were inapplicable; decisions were not limited to a consideration of the interests of nearby property owners, but, rather, board was tasked with considering utility's request in the context of how the proposed tree removal and replacement and future maintenance operations would impact the park district's mission, and decision required the board to assess a broad spectrum of community costs and benefits not limited to facts peculiar to the individual case.