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San Luis Obispo Local Agency Formation Commission v. Central Coast Development Company

Court of Appeal, Second District, Division 6, California - May 5, 2022 - Cal.Rptr.3d - 78 Cal.App.5th 363 - 2022 WL 1419943

After property developer seeking to construct housing units on property, as well as city that approved permit, refused to pay more than $400,000 in attorney fees and costs to county's local agency formation commission, which prevailed in company and city's lawsuit against it for its denial of company and city's annexation application, commission brought action against developer and city, seeking attorney fees and costs.

The Superior Court granted developer and city's judgment on pleadings. Commission appealed. While that appeal was pending, developer and city moved for attorney fees. The Superior Court granted the motion, awarding $428,864 to developer and $172,850 to city. Commission appealed.

On rehearing, the Court of Appeal held that:

- Indemnity agreement contained in annexation application being void for illegality meant that commission was not subject to liability for attorney fees based on statute governing award of attorney fees in contract actions, and
- Doctrine of in pari delicto did not apply to allow enforcement of indemnity agreement.

Indemnity agreement contained in property developer and city's property-annexation application that they submitted to county's local agency formation commission was void for illegality, and therefore commission was not subject to liability for attorney fees based on statute governing award of attorney fees in contract actions, in action arising from commission's denial of application to annex property for construction of housing units; commission was not authorized by statute to make indemnity agreement.

A public agency that was not authorized to make the agreement, resulting in that contract being void and the public agency not being able to enforce nor be liable on the contract, is not liable for attorney fees pursuant to statute governing award of attorney fees in a contract action.

Indemnity agreement contained in property developer and city's property-annexation application that they submitted to county's local agency formation commission was void for illegality, and therefore commission was not subject to liability for attorney fees based on statute governing fees and charges incurred in the processing of an application with the commission, in action arising from commission's denial of application to annex property for construction of housing units; commission was not authorized by statute to make indemnity agreement.

Doctrine of in pari delicto did not apply to allow enforcement of indemnity agreement, which was void for illegality, contained in property developer and city's property-annexation application that they submitted to county's local agency formation commission, and therefore commission was not subject to liability for attorney fees based on statute governing award of attorney fees in contract

actions, in action arising from commission’s denial of application to annex property for construction of housing units; commission was public entity for which there was overriding public interest in limiting its contractual obligations.

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