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Save Lafayette v. City of Lafayette

Court of Appeal, First District, Division 3, California - November 30, 2022 - Cal.Rptr.3d - 2022 WL 17336106

City residents petitioned for writ of mandate alleging that apartment development project approved by city conflicted with city's general plan and zoning requirements, environmental impact report (EIR) was inadequate, and supplemental EIR was required.

The Superior Court denied petition. Residents appealed.

As matter of apparent first impression, the Court of Appeal held that under Housing Accountability Act, city's general plan and zoning standards in effect when original application was deemed complete applied.

Under Housing Accountability Act, city's general plan and zoning standards in effect when original apartment development application was deemed complete applied to variant of original application, as opposed to standards in effect when applicant terminated process agreement that had suspended original application for consideration of alternative project and asked city to resume processing variant of its original application, although there was lengthy delay between certification of environmental impact report and project approval that was outside time limits of Permit Streamlining Act; consequence under Permit Streamlining Act of any failure by city to act was project being deemed approved, not disapproved, and applicant's request to resume processing did not serve as resubmittal.

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