

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING & PLANNING - CALIFORNIA

Spencer v. City of Palos Verdes Estates

Court of Appeal, Second District, Division 5, California - February 27, 2023 - Cal.Rptr.3d - 2023 WL 2237502

Non-local surfers, who encountered alleged harassment from local surf group when trying to access premier surf spot at city beach, and non-profit organization dedicated to preserving coastal access brought action against surf group, some of group's individual members, and city alleging conspiracy to deny access under California Coastal Act.

The Superior Court granted city's motion for judgment on the pleadings. Plaintiffs appealed.

The Court of Appeal held that:

- Masonry and wood fort built on city beach qualified as "development" requiring permit under Act;
- City, as landowner, could be held strictly liable under Act for unpermitted fort; and
- Plaintiffs stated conspiracy claim against city under Act based on alleged harassment.

Masonry and wood fort built on city beach qualified as "development" requiring permit under California Coastal Act, since fort was indisputably a structure, which term was included in statutory definition of "development."

City, as landowner, could be held strictly liable under California Coastal Act for unpermitted masonry and wood fort built on city beach, although city did not construct fort and did not possess a private landowner's right to exclude others from public beach, since any property owner who maintained a development undertook activity within meaning of Act, even if built by prior owner or trespasser, Act was not concerned with potential exclusion of local surf group that allegedly built fort, but with construction of unpermitted fort which city allowed to remain in its location for over 30 years, and city possessed ability to remove fort.

Non-local surfers sufficiently alleged city's participation in purported conspiracy with local surf group to deny access to city beach, as required to state claim against city under California Coastal Act based on conspiracy liability, where non-local surfers alleged many city residents and city council did not want "outsiders" in city, local surf group had decades-long practice of blocking access to city beach, by words and acts, city was aware of such conduct by local surf group and complicit in it, and city did not enforce its laws against local surf group, but acted to exclude "outsiders" by targeting them with traffic citations, parking tickets, and towing.