
ZONING & PLANNING - CALIFORNIA

Guerrero v. City of Los Angeles

Court of Appeal, Second District, Division 5, California - January 17, 2024 - Cal.Rptr.3d - 2024 WL 177163

Opponents of real estate development project filed petition for writ of mandate alleging violations of California Environmental Quality Act (CEQA), Planning and Zoning Law, and Subdivision Map Act, seeking order requiring city to vacate project approvals and prepare environmental impact report (EIR) evaluating project's environmental impacts.

Trial court sustained developers' and city's joint demurrer as to claims under Planning and Zoning Law and Subdivision Map Act but overruled demurrer as to CEQA claims. Following trial, the Superior Court granted petition and issued peremptory writ of mandate. City and developers appealed.

The Court of Appeal held that:

- CEQA limitations period began to run on issuance of first notice of determination (NOD) adopting mitigated negative declaration (MND) and approving vesting tentative tract map, and
- City's re-adoption of MND did not restart statute of limitations.

City's issuance of notice of determination (NOD) regarding adoption of mitigated negative declaration (MND) and approval of vesting tentative tract map for proposed development project constituted "project approval," and thus, triggered 30-day limitations period for challenging MND under California Environmental Quality Act (CEQA), even though vesting tentative tract map conditioned city's approval on developers obtaining zoning change; vesting tentative tract map represented city's earliest firm commitment to approving project as it would require such approval once developer met conditions in tentative tract map, city's issuance of MND before project's first discretionary approval was consistent with legislative intent for early environmental review, and NOD put public on notice of MND.

City's re-adoption of mitigated negative declaration (MND) for proposed development project, after city had initially issued notice of determination (NOD) regarding adoption of MND and approval of vesting tentative tract map for project, did not restart 30-day limitations period for challenging adequacy of MND under California Environmental Quality Act (CEQA), and thus, objectors who failed to challenge original MND within 30 days of NOD could not assert same challenges to subsequent NOD filed by city when adopting zone change required under tentative tract map and re-adopting MND, where no changes to project had occurred that would have required city to issue subsequent or supplemental MND, as necessary to support challenge to re-adopted MND.

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