

Bond Case Briefs

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Riddick v. City of Malibu

Court of Appeal, Second District, Division 5, California - February 1, 2024 - Cal.Rptr.3d - 2024 WL 376305

Landowner filed complaint against city after city denied their application for a permit to add an accessory dwelling unit (ADU) to their residence, alleging administrative and traditional mandate as well as a violation of the Housing Accountability Act.

The Superior Court granted claim for traditional mandate. City appealed, and landowners cross-appealed.

The Court of Appeal held that:

- City's interpretation of ordinance was not entitled to deference on appeal;
- Under city ordinance, attached accessory dwelling units were in the class of improvements to existing single-family residences that were exempt from coastal development permit requirements; and
- Whether landowners were entitled to a permit within 60 days of their completed application for an attached accessory dwelling unit was not properly before the Court of Appeal.

City's interpretation of provision of local coastal program ordinance providing for exemptions from coastal development permits for improvements to existing single-family residences was not entitled to deference on appeal in action stemming from city's denial landowner's application for a permit to add an accessory dwelling unit to their residence; neither the language of the ordinance nor its legislative history were ambiguous, any ambiguity was not of a technical or obscure nature which required specialized expertise, city's interpretation was not the result of careful consideration by senior agency officials or a consistent position maintained over a long period of time, and ordinance language was not crafted by city planning officials but rather was based, almost verbatim, on an implementing regulation promulgated by the Coastal Commission.

Under city ordinance, attached accessory dwelling units (ADUs) were in the class of improvements to existing single-family residences that were exempt from coastal development permit requirements; ordinance noted that improvements to existing single-family residences were exempt as a class "except those noted below," improvements were defined as all structures directly attached to the residence as well as other structures normally associated with a single-family residence, which created two apparent classes of attached and detached structures, and while ordinance specified guest houses and accessory self-contained residential units was excluded from the list of other structures, that exclusion only applied to apparent class of detached structures.

Issue of whether landowners were entitled to a permit within 60 days of their completed application for an attached accessory dwelling unit was not properly before the Court of Appeal on landowners' cross appeal from determination that they were entitled to a writ of traditional mandate requiring city to consider their application as compliant with the relevant ordinance, as arguments on cross-appeal appeared to arise from matters that occurred following the final ruling on which the

judgment was based.