

Bond Case Briefs

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REFERENDA - CALIFORNIA

Move Eden Housing v. City of Livermore

Court of Appeal, First District, Division 5, California - March 6, 2024 - Cal.Rptr.3d - 2024 WL 959630

Objectors petitioned for writ of mandate seeking to compel city, pursuant to Elections Code, to process objectors' referendum petition challenging city's resolution approving affordable housing project that contained component of a new public park.

Developer moved for bond.

The Superior Court granted motion for bond and denied petition. Objectors appealed.

The Court of Appeal held that:

- City's adoption of resolution was a legislative act subject to local referendum power;
- City did not act as state's administrative agent under statutes dissolving community redevelopment agencies; and
- Proceeding was to enforce Elections Code thus precluding statutory bond requirement.

City's adoption of resolution approving amendments to agreement with developer of affordable housing project was a legislative act subject to local referendum power, where resolution included decision to construct and improve a new public park.

City did not act as state's administrative agent under statutes dissolving community redevelopment agencies when city adopted resolution approving an affordable housing project, with a new public park component, on property that was a "housing asset" transferred to city as a successor to a former redevelopment agency, and thus city's adoption of resolution was a legislative act subject to local referendum power, even though the state-approved long range property management plan specified the use of the property as high density housing with an affordable component, where, in deciding to construct and improve a park, city made discretionary policy determinations that were not dictated by long range plan or any provision of dissolution statutes.

Proceeding on petition for writ of mandate seeking to compel city, pursuant to Elections Code, to process objectors' referendum petition challenging city's resolution approving affordable housing project that contained component of a new public park did not fall within scope of statute allowing a trial court to require the furnishing of a bond in actions brought to delay or thwart an affordable housing project, and therefore objectors were not required to furnish a bond; proceeding was brought to enforce provisions of Elections Code and secure for the city's voters their right to referendum, rather than to challenge project.