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Temple of 1001 Buddhas v. City of Fremont

Court of Appeal, First District, Division 4, California - March 6, 2024 - Cal.Rptr.3d - 2024 WL 973921

Property owners filed petition for writ of mandamus as well as declaratory and injunctive relief, challenging a city hearing officer's administrative decision upholding city's nuisance determinations and orders related to construction of a residence on grounds of procedural due process and preemption of city's appeals process.

The Superior Court, San Francisco County, sitting by designation, denied the petition. Owners appealed.

The Court of Appeal held that:

- City's appeals process was preempted by state law;
- Issuance of traditional writ of mandate was warranted;
- Owners could not show present and actual controversy entitling them to declaratory relief;
- City's appeals process was not preempted to extent that nuisance determinations rested on zoning ordinance violations;
- Hearing officer did not act in excess of her jurisdiction by ordering owners to abate the nuisance;
- Owners did not establish there was financial bias that rendered hearing procedurally unfair arising from hearing officer's contract; and
- Deputy city attorney's presence at administrative appeal hearing was not a due process violation.

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