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PREVAILING WAGE LAWS - CALIFORNIA

Palm Springs Promenade, LLC v. Department of Industrial Relations

Court of Appeal, Fourth District, Division 1, California - June 13, 2025 - Cal.Rptr.3d - 111 Cal.App.5th 1294 - 2025 WL 1671615 - 2025 Daily Journal D.A.R. 5065

Developer filed petition for writ of mandate challenging determination by Department of Industrial Relations that redevelopment project which included public and private improvements in charter city's downtown tourist area was not subject to city ordinance exempting projects deemed municipal affairs from state prevailing wage law pursuant to city's home rule authority.

City joined petition and filed position statement. The Superior Court, Riverside County, denied writ. Developer appealed.

The Court of Appeal held that:

- As a matter of first impression, where a charter city contributes money for construction of public improvements within a private development project, that undertaking does not necessarily transform the project into a "municipal affair" that may be exempted from the prevailing wage law pursuant to the city's home rule authority;
- First phase of redevelopment project was a public works project, as required for prevailing wage law to apply;
- De minimis exception to public works definition under prevailing wage law did not apply to redevelopment project; and
- As matter of first impression, redevelopment project was not a municipal affair.

Where a charter city contributes money for construction of public improvements within a private development project, that undertaking does not necessarily transform the project into a "municipal affair" that may be exempted from the prevailing wage law pursuant to the city's home rule authority.

First phase of redevelopment project that included public and private improvements in charter city's downtown tourist area was a "public works project," as required for prevailing wage law to apply to project, where city contributed city tax dollars toward constructions, alteration, and/or demolition of subject property.

De minimis exception to public works definition under prevailing wage law did not apply to redevelopment project that included public and private improvements in charter city's downtown tourist area, where city's contribution of funds toward project was more than 2% of total project cost, and financing agreement between developer and city was entered into before date specified in exception.

Redevelopment project that included public and private improvements in charter city's downtown tourist area was not a "municipal affair," within meaning of city ordinance exempting municipal affair projects from prevailing wage law pursuant to city's home rule authority, even though city's

contribution of about $51.36 million for project was not insignificant and included funds for public infrastructure constructions; developer contributed almost three times the city’s contribution, selected contractors, entered into construction contracts for project, bore risk of any cost overruns for redevelopment of private improvements, and retained substantial control over how its funds were spent, and project was primarily built to enhance value of developer’s private improvements.

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