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MUNICIPAL ORDINANCE - CALIFORNIA

Parsons v. City of Indian Wells

Court of Appeal, Fourth District, Division 2, California - August 31, 2026 - Cal.Rptr.3d - 2026 WL 2566150

Owners of property in common interest development (CID) filed a petition for traditional writ of mandate against city, alleging the opt-out provision of municipal ordinance imposing a minimum stay requirement for residential rentals was preempted by state law and was an unconstitutional delegation to private parties of the city's legislative authority.

The Superior Court, Riverside County, entered judgment granting a writ of mandate to direct the city to issue an unrestricted short-term rental (STR) permit to owners and granted owners' motion for attorney fees. City appealed.

The Court of Appeal held that:

- Opt-out provision regulated a municipal affair, for purposes of assessing whether provision was preempted by state law;
- Home rule doctrine barred state law from preempting opt-out provision;
- Opt-out provision did not leave resolution of fundamental policy issues to members of CID, which supported provision not violating nondelegation doctrine;
- Successful opt-out vote was not irrevocably binding on a CID's members, which supported opt-out provision not violating nondelegation doctrine;
- Opt-out provision provided no standards to guide CID members in their decision whether to vote for or against an opt out, which weighed in favor of provision violating nondelegation doctrine;
- City's adoption of the opt-out provision was not arbitrary and capricious; and
- City did not adopt requirement for CID to contain four or more parcels and share boundaries to qualify for opt-out provision solely to prevent owners from obtaining an STR permit, and thus requirement was not arbitrary and capricious.