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Vadnais v. Cambria Cmty. Servs. Dist., No. B 153607, 2003 Cal. App. Unpub. LEXIS 1549 (Cal. Ct. App. Feb. 19, 2003)

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therefore subject to the ninety-day statute of limitations governing such approval. In addition, the court concluded that the trial court erred in exempting SCWD's proposed water treatment facility from zoning laws.

The court first determined whether Topsail's original petition, which challenged only the County's 1999 parcel legality determination, also represented a challenge to the County's 1992 parcel map approval. Topsail challenged the legality of the parcels pursuant to a determination made by the County's Planning Department in 1999 that the parcels were legal, despite the original subdivider's failure to comply with conditions to the 1992 Minor Land Division approval. The court concluded that any challenge to the legality of the parcels represented a challenge to the erroneous 1992 approval, since that approval originally established the legality of the parcels. The court then determined that a ninety-day statute of limitations governed the 1992 approval pursuant to the relevant government code. Thus, the trial court should have barred Topsail's challenge.

The court then addressed whether SCWD's proposed water treatment plant was subject to zoning laws. Specifically, the governing statute exempts facilities that produce or generate water from zoning laws. Finding minimal help in the plain meaning of the statute and the legislative history behind the statute, the court resorted to the general rules of construction that mandate courts to strictly construe exceptions in statutes. The court determined that a strict construction of the statute leads to the conclusion that the proposed water treatment facility is subject to zoning laws; therefore, the trial court erred in exempting SCWD's proposed facility from the zoning ordinances.

The court directed the trial court to vacate its original order, and to enter a new order denying Topsail's challenge to the legality of the parcels and granting Topsail's petition to compel SCWD compliance with zoning laws regarding its planned water treatment facility.

Kate Osborn

Vadnais v. Cambria Cmty. Servs. Dist., No. B153607, 2003 Cal. App. Unpub. LEXIS 1549 (Cal. Ct. App. Feb. 19, 2003) (denying property owners' takings claim because receiving a water connection is not a protected property interest).

Dean and Gloria Vadnais and Fred Keeler ("Vadnais") filed a petition for a writ of mandate and complaint for damages against the County of San Luis Obispo ("County") and the Cambria Community Services District ("District") for denying their permit for a condominium project. Vadnais also filed a cease and desist motion for an alleged violation of the County's Local Coastal Program ("LCP"). The Superior Court of San Luis Obispo County sustained the

demurrers to the petition and complaint without leave to amend and denied the cease and desist motion. The Court of Appeal of California, Second Appellate District, Division Six affirmed the judgment of dismissal.

Vadnais owned an eleven-acre parcel of property in an unincorporated area in the County and planned to develop part of the land into twenty-five condominium units. Vadnais submitted a condominium development plan that the Coastal Commission ("Commission") initially approved. Those opposing the project appealed to the Commission and the Commission then overturned its decision because Vadnais was unable to obtain an intent-to-serve letter from the District which provides sewer and water service. Though the County placed Vadnais on its waiting list, the District refused to issue intent-to-serve letters to projects on the County's list until the District exhausted its own list.

The County's LCP limited the number of residential building permits for the area and required the District to reserve thirty percent of its water allocations for multi-family units. However, the County only issued twenty percent of its building permits to multi-family housing projects. Vadnais maintained that the County must issue the full thirty percent to multi-family housing projects.

Vadnais first argued the trial court erred when it sustained the County's demurrer to the causes of action for mandate and declaratory relief because the County had a mandatory duty to comply with the thirty percent figure of the LCP. The court found that the Coastal Act did not require the County to issue any development permits and did not create a mandatory duty on the County to provide permits. By arguing the issue in the abstract, Vadnais did not show how the County failed to comply with LCP. The Commission rejected the project because of the lack of an intent-to-serve letter required under the LCP. Therefore, the court found that the LCP demanded permit denial and the County did not violate the LCP.

Vadnais next argued the trial court erred in sustaining the District's demurrer without leave to amend. The court found the LCP was not binding on the District and did not require the District to issue an intent-to-serve letter and Vadnais failed to show that the District did not comply with the LCP.

Finally, Vadnais contended that the County and District's actions resulted in a taking of property without just compensation. The court also found this contention to fail because the entire parcel owned by Vadnais was not fully restricted. Vadnais could still receive an intent-to-serve letter once the District fulfilled its waiting list. Vadnais did not have a protected property interest in receiving a water connection, thus, the court found no taking of the property.

Julie S. Hanson