

## **Coastal Commission Steps Over the Line By Imposing Local Coastal Plan Amendment**

In a jurisdictional dispute pitting the City of Malibu against a state conservancy and the California Coastal Commission, the court of appeal ruled the Commission lacked authority to disregard the city's objections to an amendment to its Local Coastal Program. While the Commission has the power to override a local agency's objections to LCP amendments requested by public agencies that are authorized to construct public works, the Commission only has jurisdiction to do so when the amendment is actually needed for construction of a public works project.

The conservancy had requested an LCP amendment adding new land use policies and development standards, in part to allow the conservancy to develop its park properties in the city. The city modified the proposed amendment and then sent it on to the Commission for approval. The Commission adopted the amendment, but only after making changes requested by the conservancy that were not acceptable to the city. The city sued.

The Commission and the conservancy attempted to defend the Commission's action by relying on a Coastal Act provision that allows persons "authorized to undertake a public works project or proposing an energy facility development" to request an LCP amendment from the Commission. The Commission and the conservancy conceded the requested amendment did not involve a public works project, but argued the statute applied because the conservancy is *authorized* to undertake public works projects.

The court disagreed with this argument, noting that it would put all of California's hundreds of public works agencies on equal footing with the city to seek Commission certification of LCP amendments over the city's objection. The court concluded that the only reasonable statutory interpretation would allow persons other than the city to propose LCP amendments only if they actually proposed a public works project or an energy facility development.

The Coastal Act attempts to balance local government control over land use with regional and statewide needs for coastal protection, public works and energy facilities. The *City of Malibu* case reaffirms local government's role under the Act.

[\*City of Malibu v. California Coastal Commission\*](#), B234353, 2d Dist. 8th Div. (May 10, 2012, modified June 5, 2012).

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