Blogs
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California Land Use & Development Law Report

Appellate Court Reaffirms Broad Discretion of Trial Courts to Determine Appropriate Attorneys' Fees

The Fourth Appellate District upheld the trial court's award of less than 10% of the fees requested by the prevailing petitioner in a CEQA case, finding no abuse of the broad discretion accorded trial courts in awarding fees. *Save Our Uniquely Rural Community v. County of San Bernardino*, No. E059524 (4th Dist., March 18, 2015) Al-Nur Islamic Center proposed to build an Islamic community center and mosque in a residential neighborhood in an unincorporated area of San Bernardino County. The County of San Bernardino adopted a mitigated negative declaration and issued a conditional use permit for the project. Save Our Uniquely Rural Community Environment (SOURCE) filed a petition for writ of mandate challenging the approvals. The trial court granted the petition on just one of many grounds asserted, finding a CEQA violation for failure to study environmental impacts in the area of wastewater disposal. SOURCE moved for $231,098 in attorney fees. The trial court granted the motion, but reduced the award to $19,176, noting that SOURCE had succeeded on only one of its six CEQA arguments and on none of its four conditional use permit arguments. The court of appeal affirmed, holding that SOURCE failed to demonstrate any abuse of discretion. The extent of a party's success, the court stated, was a key factor in determining the amount of attorneys' fees to be awarded. Here, SOURCE had advanced multiple land-use and CEQA claims and sought an order setting aside the approvals pending preparation of an EIR. However, it succeeded solely on one of its CEQA claims and obtained only an order setting aside the approvals pending further review on the single issue of wastewater treatment. The trial court thus acted well within its discretion in reducing the requested fee award based on degree of success. The trial court likewise did not abuse its discretion in finding several elements of the fees excessive, including 40 hours preparing a 14-page reply brief that consisted primarily of reiterating the arguments made in the opening brief; charging nearly $10,000 for a "run-of-the-mill" attorney fees motion; and billing 8.3 hours at partner rates for basic research on matters such as standards of review, "CEQA law and guidelines" and "requirements for opening brief." Additionally, the court remarked that while SOURCE claimed its counsel's rate were reasonable for the Los Angeles area, it failed to show why those rates were reasonable in San Bernardino County. Absent a specific showing of why adequate lawyers in the local market could not be obtained, the trial court was justified in calculating attorneys' fees based on reasonable local market rates. The court also found no justification for petitioner's request for a multiplier of two based on the purported risk assumed by the law firm, the complexity of the questions involved, or the superior skills allegedly displayed by its attorneys in presenting them.

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