

## Charter City Exempt from General Plan Consistency Requirement

A charter city is exempt from the statutory requirement that its specific plans and zoning ordinances be consistent with its general plan absent an express, unequivocal statement of intent in the city charter to adopt the consistency requirement. *Kennedy Commission v. City of Huntington Beach*, No. (4th Dist., Nov. 20, 2017). In 2010, the City of Huntington Beach adopted the Beach Erdinger Corridor Specific Plan, which allowed up to 4,500 residential units in the Beach Erdinger area. In response to complaints by residents, the City later amended the plan to reduce the allowable units to 2,100.



In the interim, however, the City had updated the housing element of its general plan to reflect the City's Regional Housing Need Allocation by the Department of Housing and Community Development. The housing element had assumed that the majority of the affordable housing reflected in its numbers would be developed within the Beach Erdinger Specific Plan area. But the amendment of the Beach Erdinger Plan to cut allowable

housing by more than half resulted in a 320-unit shortfall in the affordable units assumed in the housing element. The Kennedy Commission brought suit, contending that the amendment of the Beach Erdinger Plan resulted in an unlawful inconsistency between this plan and the general plan housing element, in violation of the requirement that a specific plan must be consistent with the general plan. The City argued that, because it was a charter city, it was exempt from the requirement that its specific plans be consistent with its general plan. The court of appeal agreed, holding that the consistency requirement was inapplicable because Huntington Beach was a charter city. The court rejected the Kennedy Commission's argument that the City, in its own zoning ordinance, had imposed the consistency requirement. Although the zoning ordinance contained language that could be interpreted to require consistency between specific plans and the general plan, the court reasoned that only an express, unequivocal statement in the City's *charter* was sufficient to impose a consistency requirement notwithstanding the exemption for charter cities. Because the charter contained no such statement, the City remained exempt from any requirement that the Beach Erdinger Specific Plan be consistent with the housing element of the general plan.

Blog series

## **California Land Use & Development Law Report**

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)