

No Coastal Development Permit Required Where Coastal Commission Had Certified City's Local Coastal Program

The City of San Diego was not required to obtain a coastal development permit for a transitional housing project because the Coastal Commission had certified the City's local coastal program, whose provisions therefore applied in lieu of the Commission's regulations. *Citizens for South Bay Coastal Access v. City of San Diego*, 45 Cal. App. 5th 295 (2020). The City planned to rehabilitate an existing building in the City's Coastal Overlay Zone for a transitional housing project. The City's municipal code exempted improvements to existing structures from the need for a coastal development permit for development in the Coastal Overlay Zone. In reliance on the exemption, the City issued a conditional use permit for the project without a CDP.



Petitioners sued, claiming the City's municipal code exemptions

were preempted by the Coastal Act because they were more permissive than the existing-structure exemption in the Commission's regulations. The court of appeal found that petitioners' claim was based on the mistaken premise that both the Commission's and the local coastal program's regulations applied to the project. However, the Coastal Act expressly allows for a local government's land use decisions to be governed solely by its certified local coastal program. Because the Commission had certified the City's local coastal program in compliance with the Coastal Act, the Commission's regulations did not apply to the City's CDP decisions. Thus, the City's conclusion that the project could proceed without a CDP was correct regardless of whether a CDP would have been required under the Commission's regulations.

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