

## Development Agreement, Not Vesting Tentative Map, Governed Whether New Fees Applied to Project

When a tract of land is governed by both a vesting tentative map and a subsequent development agreement and the terms of the two documents conflict, the development agreement controls. [North Murrieta Community v. City](#)



North Murrieta Community LLC is the developer of the project. The City approved the project before the development agreement,

The

Development Agreement extended the Vesting Tentative Map for fifteen years, locking in regulations and fees for the same period, although now with an effective date of 2001. Importantly, in addition to the new effective date, the City expressly reserved rights in the Development Agreement to impose additional fees (or increase fees) in the future for city-wide impacts that were not fully mitigated at the time of project approval. The Vesting Tentative Map and Development agreement were both subsequently extended, with final expiration dates of 2019 and 2021, respectively. In 2003, the City passed the Transportation Uniform Fee Program Ordinance (TUMF) to raise funds to improve the regional transportation system. Originally, the TUMF contained an exemption for projects subject to existing vesting tentative maps or development agreements, but the Murrieta City Council voted to remove the exemption in 2010. The City subsequently collected TUMF fees for development within the Golden City Project. North Murrieta sued, seeking a refund of the fees on the ground that the Vesting Tentative Map and Development Agreement prohibited imposition of the TUMF fees. The

appellate court held that although rights under a vesting tentative map may be extended beyond their normal term through a subsequent development agreement, the terms of the development agreement control. "Vesting tentative maps," it said, do not impart "a species of super rights that cannot be negotiated away [in a development agreement]." Here, when North Murrieta and the City negotiated the Development Agreement in 2001, they also negotiated the long-term extension of the Vesting Tentative Map, allowing North Murrieta to retain those rights for several additional years. However, the terms of the Development Agreement made clear that the City did not extend all rights conveyed by the original Vesting Tentative Map. The Development Agreement changed the new effective date of the Vesting Tentative Map to 2001, allowing new generally-applied fees for impacts not fully mitigated as of the effective date. The Development Agreement was a contract, the court noted, just like any other, and both parties had the opportunity to negotiate the terms. North Murrieta explicitly agreed to modify its rights under the Vesting Tentative Map when it entered into the Development Agreement. When the stated rights conflicted, the terms of the Development Agreement controlled.

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