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November 10, 2020

Completion of Construction Rendered CEQA Challenge Moot

The Third District Court of Appeal held that CEQA and permitting challenges to an expansion project were



court
14 (2020).
and
016 and

In

February 2017, the petitioners challenged the August 2016 building permit contending that the project was approved in violation of CEQA and the Planning and Zoning Law. Petitioners also requested a temporary restraining order and a preliminary injunction, which the trial court denied because construction was nearing completion and the plaintiffs failed to demonstrate irreparable harm or immediate danger. The project was completed in October 2017, and the County issued a certificate of occupancy. On appeal, the court held that the challenges regarding the validity of permits authorizing the project were mooted by completion of the project. Once construction is completed, the court reasoned, requiring the preparation of an EIR is no longer an appropriate remedy. Distinguishing prior caselaw, the court found that the developer did not commence construction in violation of any court orders, nor was there any indication that it tried to evade CEQA or Planning and Zoning Law requirements. The facility had undergone two prior expansions without needing to complete an EIR, and the developer relied on the validity of the 2016 building permit during the expansion. In addition, the plaintiffs failed to request an injunction until the project was nearly completed and did not attempt to argue that the case fell within the exemption from the mootness doctrine for "important issues of broad public interest that are likely to recur."

Authors