

## **Waterfront Development Project Was Vested Against Later Voter Initiative By Approved Vesting Tentative Map Notwithstanding Project's Location Within Coastal Zone.**

The court of appeal held that a vesting tentative map covering property within the Coastal Zone gave the developer the vested right to proceed with the project notwithstanding subsequent changes in local laws. While the project's location in the Coastal Zone rendered it subject to Coastal Commission jurisdiction, this did not impair the enforceability of vested rights against the City. *Redondo Beach Waterfront, LLC v. City of Redondo Beach*, 51 Cal. App. 5th 982 (2020). A developer submitted applications for a project on the City's waterfront, including an application for a vesting tentative map, which was deemed complete by the City on June 23, 2016. The City Council approved the project entitlements in October 2016 and subsequently executed a lease agreement with the developer for the City-controlled parcels in the project area. Five days after the developer's vesting tentative map application was deemed complete, neighbors submitted to the City a "Notice of Intent to Circulate Petition." That notice began the process of placing an initiative -- the King Harbor Coastal Access, Revitalization, and Enhancement Act, known as Measure C -- on the ballot. Measure C included new, stricter waterfront development standards and development caps. Measure C was adopted by the voters in March 2017. The City notified Developer that the passage of Measure C would interfere with certain of the City's obligations under its lease agreement with Developer. The City invoked the force majeure clause and later terminated the agreement. The developer challenged Measure C on several grounds, including that it could not be applied by the City to the project because Developer's rights had vested prior to passage of Measure C. The Subdivision Map Act provides that when a local agency approves or conditionally approves a vesting tentative map, that approval shall confer a vested right "to proceed with development in substantial compliance with the ordinances, policies, and standards" in effect at the date the local agency has determined that the application is complete. Gov't Code §§ 66498.1(b), 66474.2. Project opponents intervened in the suit and argued that the vesting provisions of the Map Act do not apply to development within the Coastal Zone because the local agency's decision-making is subject to review by the Coastal Commission. They asserted that the Coastal Act exclusively regulates local agency actions in the Coastal Zone and supersedes the vesting provisions of Government Code section 66498.1. The court of appeal rejected the opponents' arguments, noting they "conflated a *local* agency's enforcement of *local* ordinances and policies, which is subject to the vested rights provided under section 66498.1(b), with a developer's obligations to comply with *state* and *federal* laws and policies, which is not." The Coastal Act's provision for oversight of local land use decisions "does not *invalidate* section 66498.1(b) -- the statutes simply coexist." Developer remained subject to the Coastal Act and the jurisdiction of the Coastal Commission, but the issue in this case was whether the *City's* approval of the vesting tentative map bound the *City*. The court held that it did. The court also rejected the opponents' argument that the developer's claims were not ripe. The court found it plain that there was an actual controversy because the City indicated it believed Measure C would impact some of the City's obligations under its lease agreement with Developer. The court held this conclusion was "necessarily in conflict with, and to the detriment of, the Developer's statutory vested rights." The court also rejected claims that the matter was unripe because the Coastal Commission had not yet certified Measure C's amendments to the local coastal program or determined whether it would apply Measure C when reviewing the City's issuance of a coastal development permit for the project. The court noted that its decision did not address Measure C's applicability to future Commission proceedings. Rather, the decision was limited to the question of Developer's right to proceed with the project vested as against the City.

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