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Public Notice Need Not State That Permit Will Be Deemed Approved in Order for Permit Streamlining Act to Apply



A California Court of Appeal held that the Coastal Commission and the Department of Housing and Community Development have concurrent jurisdiction over mobilehomes located in the coastal zone and that proper notice of a public hearing is sufficient to meet notice requirements for approval due to agency inaction under the Permit Streamlining Act. *Linovitz Capo Shores LLC v. California Coastal Commission*, No. G058331 (4th Dist. June 25, 2021).



Appellants, who were owners of beachfront mobilehomes, obtained permits from HCD to remodel and add second stories to their structures. After renovations were completed, the Coastal Commission issued notices stating that renovation of their structures was illegal without a coastal development permit and required appellants to either remove the changes or apply for "after-the fact" authorization. Appellants applied for "after-the fact" permits, and the Coastal Commission issued public hearing notices for each application and then held individual hearings. The agency did not make any decisions on the permits following the hearings. The court first rejected the appellants' argument that the Coastal Commission did not have jurisdiction to require a coastal development permit in addition to an HCD permit. Although HCD has primary authority over mobilehome permitting under the California Mobilehome Parks Act, the court found that construction of the statute did not preempt the Coastal Act—there were no inherent conflicts between the development provisions of the Coastal Act and the Mobilehome Parks Act, and both statutes could apply concurrently. In addition, it was not dispositive that the Coastal Commission had declined to enforce its authority over previously permitted mobilehome parks in coastal zones. However, the court held that the applicants did not have to undo their remodeling because their "after-the-fact" permits had been deemed approved under the Permit Streamlining Act due to the Coastal Commission's failure to act in a timely manner. First, the court declined to overturn the trial court's finding that appellants did not withdraw their applications due to a lack of substantial evidence to the contrary. Second, the court held that the Coastal Commission provided proper notice that met the standards for "public notice required by law." It refused to follow a prior case (*Mahon v. County of San Mateo*, 139 Cal.App.4th 812 (2006)), which held that the public notice must state that the permit will be deemed approved if the agency does not act within a specified period. The court disagreed with this interpretation, observing that "the plain language of section 65956(b), does not require an agency's public notice to include a statement that the permit at issue will be deemed approved if the agency does not act on it within a specified number of days." The Coastal Commission had provided adequate notice for the public hearing, which was sufficient to meet both statutory and constitutional notice requirements.

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