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CEQA Challenge to Campus Town Project in Monterey County Was Untimely



The Court of Appeal held that a writ petition asserting potential CEQA violations concerning the Campus Town project, a significant development project in Monterey County, was untimely because it was filed after the fixed end date of the COVID 19-related Emergency Rule 9(b) tolling period established by the Judicial Council. *Committee for Sound Water v. City of Seaside*, No. H049031 (6th Dist., May 9, 2022).



Plaintiff sought a writ of mandate challenging the city's approval of the Campus Town project and the determination by the Fort Ord Reuse Authority (FORA) that the project was consistent with the Fort Ord Reuse Plan. Plaintiff also alleged that its constitutional right to due process had been compromised by an amendment to Emergency Rule 9(b), which substituted a fixed end date for the originally undefined tolling period. Furthermore, plaintiff argued that FORA failed to provide notice of FORA's Campus Town Hearing meeting, also denying their right to due process.

As originally adopted on April 6, 2020, the Judicial Council's Emergency rule 9 tolled all statutes of limitation for civil causes of action until 90 days after the Governor lifted the state of emergency related to the COVID-19 pandemic. The Judicial Council subsequently received comments regarding the adverse impact of Emergency rule 9 on CEQA actions, which have particularly short deadlines, generally 30 or 35 days. Thereafter, the Judicial Council amended Emergency rule 9 to set a fixed end date of August 6, 2020, for all claims subject to statutes of limitations of 180 days or less. Plaintiff filed its action on September 1, 2020.

Plaintiff claimed that the writ petition was filed on time as the amendment to Emergency rule 9 unconstitutionally "truncated" their filing deadline. The court, however, was not convinced that the so-called "truncation" of the statute of limitations unduly reduced the filing period, as CEQA statutes of limitations are extremely short, and the amended rule still provided plaintiff an extension of over two months to timely file its writ petition.

The court also concluded that plaintiff's due process claim based on the alleged failure of FORA to provide notice of its Campus Town consistency hearing was moot because FORA had since been dissolved and the statutory requirement that FORA determine consistency with the Fort Order Reuse Plan had been repealed.

Finally, the court determined that the trial court did not err in denying leave to amend as plaintiff had not met its burden to show that any amendment to the writ petition could provide relief vis-a-vis the constitutional due process claims.

## **Topics**

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