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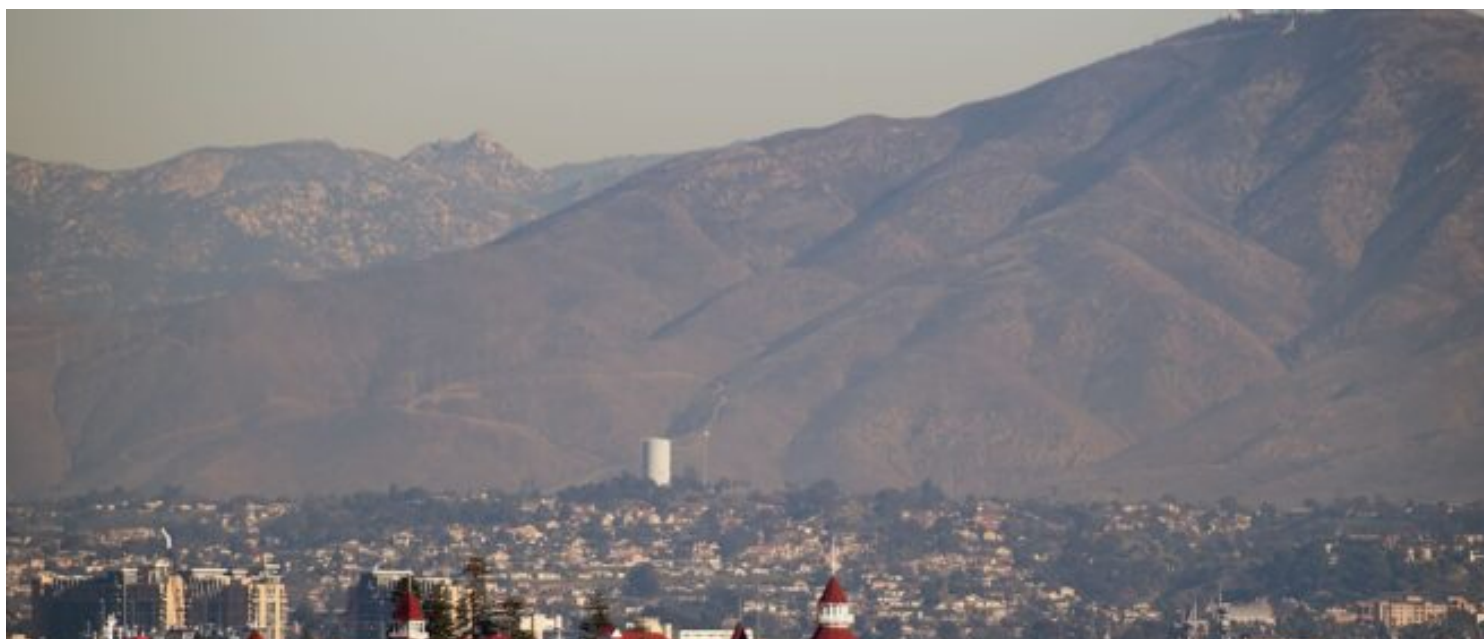
July 26, 2022

### California Courts Lack Jurisdiction to Hear Challenges to Regional Housing Needs Allocations



The Fourth District Court of Appeal held that California courts do not have jurisdiction to adjudicate claims involving objections to regional housing needs assessment (RHNA) allocations. *City of Coronado v. San Diego Association of Governments*, 80 Cal. App. 5th 21 (2022).

The City of Coronado along with three other cities sued San Diego Association of Governments and its board of directors contending that SANDAG denied the cities a fair hearing when deciding the cities' administrative appeals of SANDAG's RHNA allocations. Because SANDAG approved the cities' final RHNA allocations using a weighted vote rather than a tally vote, the cities claimed that the vote was improper and the final RHNA allocation approvals should be deemed invalid. The cities also alleged that certain Board members were biased against the cities and that the denial of the cities' appeals was improperly "predetermined."



The court of appeal, relying on Government Code section 65584.04 and the precedent set in *City of Irvine v. Southern California Assn. of Governments*, held that the court lacked jurisdiction over the claim. Section 65584.04 states that a council of governments is responsible for developing "a proposed methodology for distributing the existing and projected reasonable housing needs to cities, counties, and cities and counties within in the region . . . ." The court in *City of Irvine* held that "the administrative procedure established under Government Code section 65584 et seq. . . . to calculate a local government's [RHNA] allocation [was] intended to be the exclusive remedy for the municipality to challenge that determination and thereby precluded judicial review of the decision."

The court rejected the cities' argument that *City of Irvine* was not controlling because it did not involve the types of procedural issues raised in this case.

First, the distinction between substantive and procedural challenges was not drawn in *City of Irvine*. Rather, *City of Irvine* broadly held that "the statutes governing the RHNA allocation procedure . . . reflect a clear intent to preclude judicial intervention in the process," with no suggestion that procedural claims were outside the scope of this holding. While the cities argued that they were not challenging the RHNA allocation itself, but only the procedures that resulted in the allocation, the ultimate relief they sought in their prayer for relief was that the RHNA allocation be rescinded. But *City of Irvine* established that a judicial challenge seeking an alternative RHNA allocation was barred, and the court was confident that "the Legislature would not have intended to authorize judicial review that would delay the allocation and yet result in the same allocation."

Second, *City of Irvine* reasoned that given the intergovernmental nature of the RHNA statutory scheme, a municipality has no enforceable right against a council of governments in its determination of a RHNA allocation. This rationale was not dependent on the purportedly substantive nature of the claim in *City of Irvine*.

Third, *City of Irvine* cited the availability of other potential remedies outside of the judicial system as a reason for concluding that judicial review was barred. The RHNA administrative appeals process itself provides a potential remedy for a municipality to raise objections to its allocation, and the cities raised their procedural objections in the course of their administrative appeal. In addition, the Department of Housing and Community Development is required to approve both the methodology used in developing an RHNA allocation and the final RHNA allocation. These additional administrative procedures made it clear that municipalities are not without recourse in challenging an RHNA allocation. Rather, under *City of Irvine*, by legislative design, municipalities "have no recourse with the courts."

Finally, the court noted that the Legislature expressly removed a prior statutory provision authorizing judicial review of RHNA allocations. This signaled to the court that all challenges, "substantive" or "procedural," were precluded from judicial review.

In short, none of the rationales for the holding in *City of Irvine* depended on whether the basis for the judicial challenge was procedural or substantive. The court therefore declined to limit that holding to substantive claims, since this would "evade the legislatively imposed limits on judicial review that the [*City of Irvine*] court sought to enforce."

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