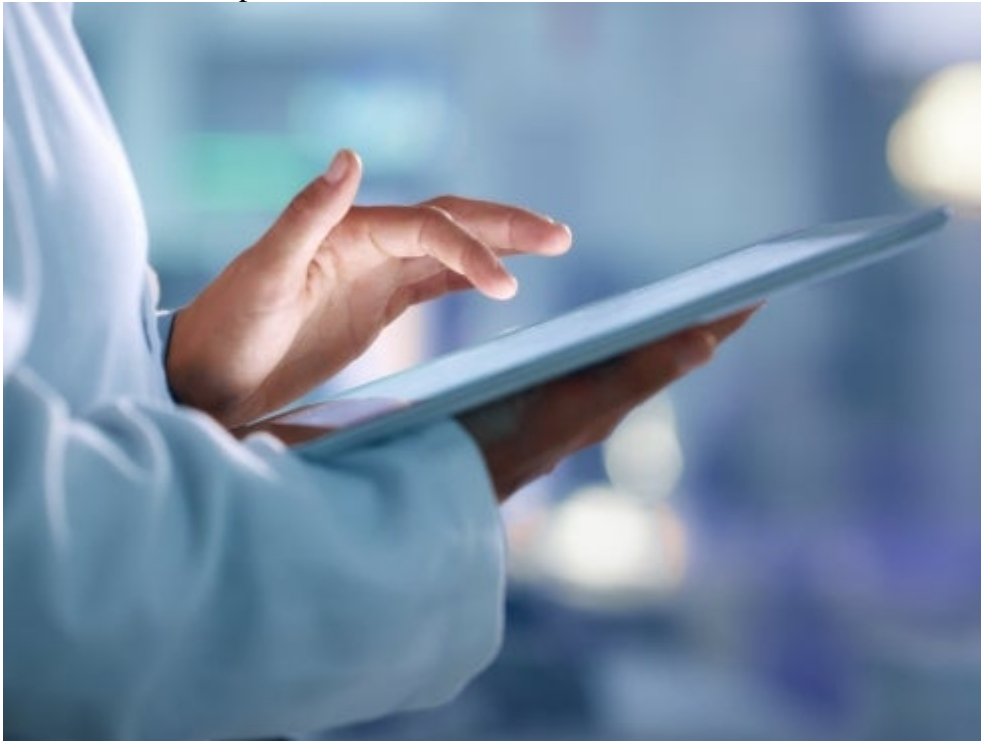


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### UCSF Hospital Project Was Exempt From Local Land Use Regulations Even If Not Pursued Solely For Governmental Purposes



Project opponents were unable to state a claim against the Regents of the University of California based on allegations that a new hospital at the University of California, San Francisco campus would violate local land use regulations.

*The Regents of the University of California v. Superior Court (Parnassus Neighborhood Coalition)*, No. A169318 (1st Dist., June 13, 2024).

The Regents approved a new hospital at the UCSF Parnassus Heights campus. A coalition of neighbors sued, claiming the project was subject to local height and bulk restrictions, which it violated. The appellate court surveyed prior caselaw establishing that the Regents, as a state entity, are exempt from local building and zoning regulations when engaging in a governmental capacity, but may be subject to municipal regulation in situations where its conduct bears no relation to its governmental functions.

The Regents noted that UCSF provides education for medical students and argued that the new hospital was for patient care, scientific research, and teaching, thus furthering its educational purpose. They further argued that the existence of additional noneducational purposes did not destroy the exemption from local regulations. The coalition alleged that UCSF had previously expanded its clinical services beyond that necessary to advance its educational mission, doubling its revenue while student enrollment only increased by two percent. It argued that adding such a large hospital would further promote UCSF's proprietary activities as a healthcare provider and further increase UCSF's revenues rather than exclusively advancing its educational and patient needs. It claimed this made the hospital subject to local building codes and zoning restrictions.

The appellate court, disagreeing with the trial court, concluded that the Regents were exempt from the City's building and zoning regulations as a matter of law.

The appellate court noted that the Regents' governmental purpose is extensive, with "vast power" regarding property administration, and a broad function "to impart learning and to advance the boundaries of knowledge." The coalition did not and could not allege that the hospital had no relation to the Regents' governmental functions. It also failed to cite authority for its assertion that, by providing healthcare, the Regents were acting in a purely proprietary capacity not entitled to immunity.

Moreover, the coalition conceded that the construction of a smaller hospital would advance the Regents' educational mission. The Regents, however, determined a larger hospital was necessary to accommodate increasing patient demand and UCSF's survival. This resulted in a conflict between the local regulations and the Regents' ability to decide for UCSF what sort of hospital would best serve its needs, in which case the state's sovereignty prevailed.

The appellate court also ruled that a project need not be pursued solely for governmental purposes to be exempt from local regulations. That the hospital might increase UCSF's revenue did not constrain the Regents' state sovereignty. The only reasonable inference to be drawn from the coalition's allegations was that the hospital would provide clinical services and advance UCSF's educational mission, even if it also did more. Accordingly, the court rejected the coalition's request for leave to amend its complaint to establish facts that UCSF operated its healthcare services as a business enterprise separate and distinct from its educational institution. Because the hospital fell within the Regents' broad purposes to provide medical education for graduate students, even if it also bore some relationship to a proprietary activity, the hospital was exempt from the local regulations at issue.

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