

Challenge To Annexation Dismissed Due To Failure To Comply With Required Procedures

CEQA and other claims challenging a completed annexation were dismissed because they had not been brought in a reverse validation proceeding. [*Protect Agricultural Land v. Stanislaus County Local Agency Formation Commission*](#) (No. F066544, 1/28/14)

The Stanislaus County Local Agency Formation Commission approved annexation of land into the City of Ceres, relying on an EIR the City had prepared and certified. Protect Agricultural Land (PAL), a citizen's group, filed suit after the annexation was completed to challenge the decision, alleging that the LAFCO failed to comply with annexation law and with CEQA. However, PAL filed the suit as a petition for writ of mandate. While a petition for a writ of mandate may be filed to challenge an annexation-related decision before the annexation is completed, a completed annexation may be challenged only in a "reverse validation" action, or a quo warranto proceeding filed by the Attorney General.

In validation and reverse validation actions, a court validates or invalidates a public agency's decisions, and the final judgment is binding on all persons who might have an interest in the outcome, whether or not they participated in the case. Validation actions may be brought by public agencies to validate certain types of decisions; reverse validation actions may be brought by challengers seeking to invalidate those decisions. The challenger must include specific language in the summons, ensure that the summons is published, and file proof of publication within 60 days of filing the complaint. If these requirements are not met, the proceeding must be dismissed on the motion of the public agency "unless good cause for such failure is shown." Code Civ. Proc. § 863.

Because PAL filed its action as an ordinary mandate case, rather than as a reverse validation action, and did not publish the summons, the trial court dismissed it. On appeal, PAL acknowledged that its annexation law claims were subject to reverse validation procedures, but argued that its failure to comply should be excused for good cause because PAL's attorney had researched the issue but had not discovered the validation procedure rule. The court found that counsel's mistake was not excusable. Longstanding case law had established that completed annexation decisions may be challenged only in reverse validation actions, and PAL's attorney's reliance on a single secondary source that did not mention the reverse validation requirement did not constitute adequate research.

The court then noted that PAL's CEQA claims were simply alleged as an additional basis for invalidating the completed annexation decision. Because they were part of a challenge to a completed annexation decision, the CEQA claims were also subject to validation procedures, and were also appropriately dismissed for failure to follow those procedures.

Blog series

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)