

Suit Challenging Interpretation of Tentative Map Conditions Was Not Time-Barred

Nicholas Honchariw's battles with the County of Stanislaus over his 9-lot subdivision have now resulted in a fourth published appellate decision. (See our prior reports, [County Violates California's Anti-NIMBY Law by Rejecting Housing Project With No Affordable Units](#); [No Affordable Housing, No Attorney's Fees Under Housing Accountability Act](#); and [If At First You Succeed, Don't Try, Try, Try Again](#)). In *Honchariw IV*, the appellate court held that Honchariw's disagreement with the County's interpretation of tentative map conditions was not barred by the statute of limitations governing decisions concerning a subdivision because the suit was filed within 90 days after the dispute regarding the proper interpretation of the conditions arose. [Honchariw v. County of Stanislaus](#), No. F077815 (5th Dist., June 25, 2020).

Founded: April 1, 1854
Seat: Modesto
Population: 514,453
Area: 1,515 sq mi



Honchariw sued the County after it refused to process his

final map because the project did not comply with fire suppression conditions attached to the tentative map. Specifically, the County determined that the project's water lines and fire hydrants did not meet County Fire Code flow and pressure standards because the water district's system was not capable of providing the required flow without a system upgrade. In response, Honchariw argued that the project's water lines and hydrants met the fire flow requirements and that the applicable conditions required only that this project infrastructure be installed prior to recordation of the final map, not that it be fully functional and capable of providing the necessary flow at that time. Reaching an impasse with the County, Honchariw turned again to the courts. The County contended that Honchariw's challenge to the conditions of approval was barred by the 90-day statute of limitations in Government Code section 66499.37, which applies to any "act[] or determination[] taken, done or made prior to the decision" of a public agency "concerning a subdivision," including "the reasonableness, legality, or validity of any condition attached thereto." Because these conditions were attached to approval of the tentative map in 2012, the County maintained that Honchariw's claims were time-barred. The appellate court disagreed. It found that Honchariw's main issue was not with the reasonableness, legality or validity of the conditions adopted in 2012. Rather, his claim was that the County had later misinterpreted those conditions. The alleged misinterpretation constituted an "act[] or determination[] taken, done or made prior to the decision" of an agency "concerning a subdivision." However, Honchariw filed his lawsuit within 90 days after the dispute

regarding interpretation of the conditions arose, as reflected in correspondence between the parties. Honchariw's lawsuit was therefore a timely challenge to the *interpretation* of the conditions of approval, as distinct from one challenging the *validity* of the conditions as originally imposed. Stated differently, the court said, a claim challenging an agency's interpretation of a condition of approval does not "accrue" for purposes of the statute of limitations until it is clear what the interpretation is and that it represents the agency's final position. This occurs when it becomes apparent that further negotiations or attempts at clarification are unnecessary or would be futile. Here, the County's final position became clear only within the 90-day period preceding the filing of the lawsuit. Therefore, the statute of limitations did not bar Honchariw's claim. Honchariw is 2 for 4 in the Court of Appeal. *Update: On September 30, 2020, the California Supreme Court [denied a request](#) by the League of California Cities to depublish this decision. Thus, the decision remains citable appellate authority.*

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