Blogs
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The Court of Appeal held that an action to set aside an ordinance restricting short-term vacation rentals on the ground of failure to obtain a Coastal Development Permit (CDP) was barred by the 90-day statute of limitations for challenges to adoption or amendment of zoning ordinances. *Coastal Act Protectors v. City of Los Angeles*, No. B308306 (4th Dist., Feb. 24, 2022).

 In

December 2018, the City of Los Angeles adopted an ordinance placing restrictions on short-term vacation rentals. Over a year later, petitioner filed suit to enjoin enforcement of the ordinance until the City obtained a CDP, claiming the ordinance constituted a "development" under the Coastal Act. The trial court dismissed the action as untimely under the 90-day statute of limitations in Government Code section 65009(c)(1), which applies to actions to "attack, review, set aside void, or annul" a decision to adopt a zoning ordinance. On appeal, petitioner argued that the trial court erred in concluding its action was barred under section 65009(c)(1) because the City's failure to comply with the Coastal Act was "not an 'action' or decision contemplated by [section 65009]." Petitioner contended the action was instead subject to the three-year statute of limitations in Code of Civil Procedure section 338(a) for actions "upon a liability created by statute." The Court of Appeal disagreed. It pointed out that the Coastal Act, including the CDP requirement, predated adoption of the ordinance. Thus, assuming the City had a mandatory duty to obtain a CDP in order to impose the rental restrictions, that duty existed at the time the City enacted the ordinance. The action, therefore, was one to "attack, review, set aside, void, or annul" the City's decision to adopt a zoning ordinance without first obtaining a CDP. Petitioner waited over a year, however, to file its suit. Thus, the action was time-barred under section 65009's 90-day deadline. The court added that its conclusion was consistent with the Legislature's stated intent to "provide certainty for property owners and local governments regarding local zoning and planning decisions. (§ 65009(a)). The court noted that, after allowing for the 90-day period for challenges to the ordinance to expire, the City had expended significant resources to implement and enforce the ordinance, including $485,609 to build an online registration system and approximately $1.4 million for a one-year monitoring of the system.

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