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90-Day Limitations Period in Government Code § 65009 Applied to Political Reform Act Challenge to Land-Use Permits



A suit seeking to set aside land-use approvals based on an alleged bribery scheme in violation of the Political Reform Act was subject to the 90-day statute of limitations for actions challenging land-use decisions. *AIDS Healthcare Foundation v. City of Los Angeles*, No. B311144 (2nd Dist., Dec. 14, 2022).



A federal criminal investigation revealed that two former Los Angeles City Councilmembers engaged in bribery and other corruption in connection with their work on the City Council's Planning and Land Use Management committee, which makes recommendations to the Council concerning land-use decisions.

Petitioner sued under the Political Reform Act, seeking to set aside building permits issued during multiple years while the two Councilmembers allegedly were the beneficiaries of an ongoing bribery scheme. Petitioner contended that its PRA claims were subject to the three-year catch-all statute of limitations (CCP § 338(a)). The City countered that the more specific 90-day statute of limitation in Government Code § 65009 applied.

The court agreed with the City, finding that section 65009's 90-day limitations period clearly encompassed the building permits petitioner sought to set aside. Section 65009 "contains no exceptions," and uses "unqualified language manifesting a plain intent on the part of the Legislature to limit the time to seek review' of an agency decision." There was no exception for actions filed under the PRA.

The court rejected petitioner's argument that the gravamen of its action was not principally a challenge to the permit decisions, but instead was "a challenge to the corruption." It reasoned that while petitioner relied on the PRA as the basis for its action, the gravamen of its suit was an attack on, or review of, the committee's decisions related to permitting and real estate project approvals, and Section 65009 applied directly to that challenge.

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