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### County's Claimed Failure to Comply with CEQA Was Not a Defense to Enforcement of Encroachment Laws



Property owners who acted illegally by blocking parking on a public street fronting their houses were not entitled to use the County's alleged noncompliance with CEQA as a defense to actions enforcing encroachment laws. [\*Anderson v. County of Santa Barbara\*](#), 94 Cal.App.5th 554 (2023).

Property owners in the Montecito area of Santa Barbara County did not want drivers parking on the public road fronting their houses, which leads to a trailhead. They installed landscaping, boulders, and signs that encroached into the public right of way. The public continued to park on the street despite the encroachments, partially obstructing the travel lane, reducing the street to a one-lane road, and creating a safety hazard, especially at night.

The County's transportation division sent notices to three properties instructing the owners to remove the encroachments. It later filed a Notice of Exemption for restoring the right of way by removing the encroachments. Some other property owners sued and challenged the CEQA exemption. They obtained a preliminary injunction and later a writ preventing removal of the encroachments until the County undertook CEQA review.

The appellate court reversed. It rejected arguments that the restoration project was only part of a larger project to increase the number of hikers accessing the trailhead by increasing parking on the road. The project "is properly considered a stand-alone project because it has independent utility." It further agreed that the restoration project was categorically exempt from CEQA because it involved the maintenance or repair of an existing road and the enforcement of statutes and ordinances prohibiting unpermitted encroachments in the public right of way. It found no substantial evidence that the project presented unusual circumstances.

The court further ruled that a trial court may not enjoin a public officer from enforcing the law. "The injunction at issue here allows adjacent landowners to encroach upon a public right-of-way, a misdemeanor offense. Any claimed 'failure' to follow [CEQA] is not a defense to the commission of a crime." Citing Public Resources Code

section 21174, the court noted that CEQA is not a limitation or restriction on the power or authority of any public agency in the enforcement or of any law it is permitted or required to enforce. In balancing the harms, the court concluded that "a party suffers no grave or irreparable harm by being prohibited from violating the law ...."

## **Topics**

[CEQA](#)