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### Enforcement Authority Cannot Be Used to Revisit Zoning Decisions



A Court of Appeal held that a municipal regulation concerning enforcement of zoning laws did not provide a legal basis to challenge a city planning department’s past zoning decisions. *San Pablo Ave. Golden Gate Improvement Ass’n, Inc. v. City Council of City of Oakland*, 103 Cal. App. 5th 233, 322 Cal. Rptr. 3d 870 (2024).

The City of Oakland Planning Department granted a takeout-only commercial kitchen’s zoning application on the basis that the proposed use fell under the definition of “Light Manufacturing,” which was a permitted use in the zone where the facility was to be located.

Petitioners filed a complaint challenging the zoning decision, requesting that the Planning Department initiate a revocation review process under Oakland Municipal Code Chapter 17.152, which provides for the enforcement of city zoning laws. The Planning Department’s denial of this request was affirmed by an independent hearing officer on the basis that chapter 17.152 only allowed the Planning Department to address existing violations, not past zoning determinations.

The Court of Appeal upheld the decision, agreeing that chapter 17.152 did not provide a legal basis to challenge the Planning Department’s zoning decisions. The court concluded that the zoning determination should have instead been challenged under Municipal Code chapter 17.132, which the Code specified as the proper basis for challenging zoning determinations. However, Petitioners were unable to bring a challenge under chapter 17.132 because the statute of limitations had expired. Although chapter 17.152 allowed the public to bring complaints for “violations of the zoning regulations,” the more specific ordinance for challenging zoning determinations controlled.

## Authors

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