

Battle on the Beach—Sunset Beach Has No Right to Vote on Huntington Beach Taxes Before Being Annexed

Faced with the prospect of having to pay special property taxes after annexation by Huntington Beach, residents of unincorporated Sunset Beach sued to block annexation, or to require a vote by the Sunset Beach electorate on whether they should have to pay the taxes after annexation. In *Citizens Association of Sunset Beach v. Orange County LAFCO*, the court of appeal rejected the challenge, holding that residents of annexed territory have no right to vote on the annexing city's existing property taxes. The Sunset Beach residents had argued that Proposition 218 required such a vote. But the court disagreed, upholding statutes providing for territory to be annexed to a city and automatically made subject to that city's previously authorized taxes. The court reasoned that Proposition 218 never was intended to require votes on taxes at the time of annexation, but rather was designed to plug a loophole in Proposition 13 that allowed local governments to impose special assessments without a vote. Ballot materials spotlighted this rationale, but nowhere referred to annexation. Not only that, the text of Proposition 218 does not mention preannexation votes or otherwise speak to the issue. Proposition 218 requires a vote before a tax may be imposed, extended, or increased. A super-majority is required to approve a "special" tax, while a simple majority is sufficient for a "general" tax. The drafters of Proposition 218 would have indicated how this dual-track structure applies to annexations if they had intended for it to apply. But they didn't do so, leading the court to conclude: "Just as the silence of a dog trained to bark at intruders suggests the absence of intruders, this silence speaks loudly. It is indicative of a lack of voter intent to affect annexation law." [Citizens Association of Sunset Beach v. Orange County Local Agency Formation Commission, No. G045878, 4th Dist. 3d Div. \(Oct. 5, 2012\)](#)

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