

Vesting Rights Restrictions of Subdivision Map Act Do Not Bind Water District

A water district is not subject to the same vesting rights as a local agency under the Subdivision Map Act. Thus, the Subdivision Map Act does not restrict a municipal utility district's authority to require an easement as a condition of providing water service to a residential lot on a newly-subdivided parcel. [Tarbet v. East Bay Municipal Utility District, First Appellate District Case No. A140755, April 29, 2015](#). In 2005, the County of Alameda approved a parcel map which subdivided a parcel into three lots. A condition of approval required that that each lot be connected to the East Bay Municipal Water District water system and the parcel map included an easement for a District water main. When the subdivider sought a letter confirming that water service would be available for each lot, the District indicated it would provide water service contingent upon compliance with its regulations. Tarbet bought one of the lots and applied for water service. The District provided a water service estimate for installing a service connection, based on an additional 15-foot easement onto Tarbet's property for the installation and maintenance of a water main and drain valve. Tarbet rejected the requested easement, and the District consequently refused to provide service. Tarbet filed suit seeking to compel the District to provide water service, claiming the District should be required to comply with the water service provision in the approved parcel map, which did not include the District's proposed easement. The trial court denied Tarbet's petition for writ of mandate and dismissed the case. The First Appellate District affirmed the trial court's decision. The court found that the District, which was not a "local agency," was not subject to the same constraints as a local agency under the Subdivision Map Act. Rather, the County acted as the "local agency" under the SMA for purposes of the map approval process, and the Subdivision Map Act applies to the local agency only. Importantly, the District was not a "local agency" subject to the vesting rights restrictions of the Subdivision Map Act. The court also found that the District did not waive its right to seek an easement by not asserting it earlier. To the contrary, the Subdivision Map Act does not require a water agency to agree to serve water to individual customers, or to acquire an easement from property owners for the purposes of providing water service. Thus, the District had no obligation to acquire an easement on the property at the time the parcel map was reviewed and approved. Finally, the District did not invade the County's authority to regulate the size of lots and placement of water service by demanding an easement. The court found that Tarbet offered no governing statutes, ordinances, or other authority that would require a contrary conclusion. Ultimately, the court of appeal upheld the denial of Tarbet's claims and the dismissal of his case. If he wishes to obtain water from the District, he will need to comply with all of the District's conditions that are consistent with its regulations.

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