

## **Risks to Open Space Designated in General Plan's Open Space Element a Valid Ground for Denying Application to Subdivide a Mobilehome Park**

A city may deny a proposed mobilehome park subdivision that is inconsistent with the open space element of its general plan, according to the recent court of appeal decision in [Carson Harbor Village, Ltd. v. City of Carson, No. B25011 \( Second Dist. August 21, 2015.\)](#)

Carson Harbor Village applied to the City of Carson to convert its mobilehome park to a subdivision of resident-owned lots. The park consists of 420 rental spaces on 70 acres, 17 of which are federally and state regulated wetlands, and the only open space within the city.

The city rejected the park's application, finding, among other things, that the proposed subdivision was inconsistent with the open space element of its general plan. Carson Harbor filed suit, and the trial court overturned the city's decision. The court ruled that inconsistency with the city's general plan was not a valid ground to deny the application under the state statute which governs mobilehome park conversions, Government Code section 66427.5. The court also found that, in any event, there was no evidence of a conflict.

The court of appeal reversed, holding that inconsistency with the city's general plan was a legally permissible basis for denying the application, and that the city's finding of inconsistency was supported by sufficient evidence.

In finding that the mobilehome park conversion statute does not prevent local agencies from considering consistency with the general plan when acting on a conversion application, the court of appeal applied the reasoning of a recent California Supreme Court decision in which the court considered whether a proposal to subdivide a mobilehome park in the coastal zone was subject to the Coastal Act and the Mello Act. Looking to the important policy considerations embodied in the Coastal Act and the Mello Act, the supreme court found that those policies favored an interpretation of the conversion statute that did not strip away Coastal Act and Mello Act jurisdiction over land use within the coastal zone.

The court of appeal found that the policy concerns that underlie the statutes mandating that general plan contain an open space element are strikingly similar to those of the Coastal Act, such as the policy that local agencies take positive action to protect open space, and that open space protection is "necessary" to promote the general welfare and protect the public's interest in maintaining this limited and valuable resource. The court also noted the California Supreme Court's ruling that the mobilehome park conversion statute is intended to operate in conjunction with other state laws, and that inconsistencies between statutory provisions must be reconciled whenever possible. Accordingly, the city properly considered whether the proposed conversion was consistent with the open space element of the city's general plan.

The court also concluded that substantial evidence supported the city's finding that conversion would be inconsistent with the open space element of its general plan because it would place at risk the state and federally regulated wetlands area within the confines of the mobilehome park. The area had a history of severe oil contamination, mandated annual maintenance totaled around \$50,000, and several park residents testified about

their reluctance to take on responsibility of maintaining the wetlands. Thus, the city reasonably concluded that the wetlands, which was the city's only open space, would be at risk from the proposed conversion to a common interest ownership because upon conversion, the residents would become unwilling and unsuitable stewards of that natural resource.

Blog series

## **California Land Use & Development Law Report**

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)