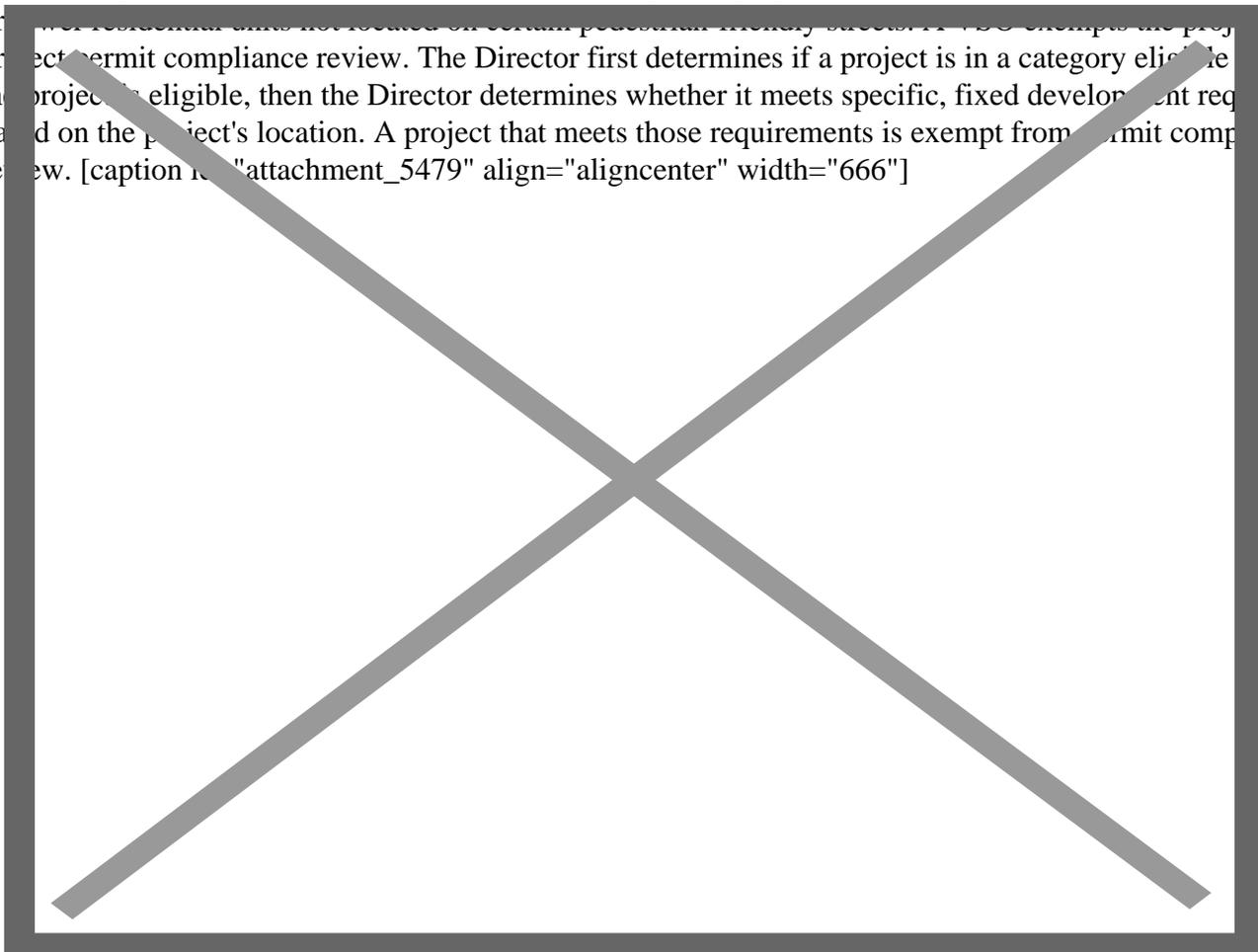


Court Upholds Los Angeles's Venice Sign-Off Procedure Against Due Process and Coastal Act Challenges

An appellate court held that the City of Los Angeles's procedure for approval or denial of development projects in Venice did not violate residents' due process rights because the procedure was ministerial. [Venice Coalition to Preserve Unique Community Character v. City of Los Angeles](#), No. B285295 (2nd Dist., Jan. 9, 2019). The City uses two different but parallel processes to approve development projects in Venice. The first is pursuant to the Venice specific plan, which was adopted to implement the polices of the City's general plan. To comply with the specific plan, projects must either undergo a project permit compliance review or obtain a determination that the project is exempt from such review. The specific plan gives the Director of Planning the ability to issue a "Venice Sign-Off" or "VSO" for certain small development projects, such as construction and demolition of four or fewer residential units not located on certain pedestrian-friendly streets. A VSO exempts the project from a project permit compliance review. The Director first determines if a project is in a category eligible for a VSO. If the project is eligible, then the Director determines whether it meets specific, fixed development requirements based on the project's location. A project that meets those requirements is exempt from permit compliance review. [caption id="attachment_5479" align="aligncenter" width="666"]



Venice,

Los Angeles[/caption] The second process involves the Coastal Act, which applies to all development in Venice.

To comply with the Coastal Act, the project must either receive a Coastal Development Permit or qualify for an exemption from the CDP requirement. Plaintiffs sued the City, alleging that (1) the City engaged in a pattern and practice of approving projects without giving proper notice and hearing to the public, (2) the City failed to confirm all development projects were consistent with the general plan, and (3) that certain CDP exemptions granted by the Director violated the Coastal Act. The appellate court held that the City's VSO procedure did not violate residents' due process rights because the process was ministerial. Due process rights are not triggered by ministerial actions because they are "essentially automatic based on whether certain fixed standards and objective measurements" are met. The court concluded the VSO process was ministerial because the Director used checklist forms to reach the determination of whether a process met the exemption criteria, rather than exercising her own discretion. Thus, the Director was not required to exercise any independent judgement when granting a VSO. The court also rejected plaintiffs' contention that the Director must have exercised discretion when issuing VSOs because she was required to review each VSO-eligible project to determine its compatibility with the City's certified Land Use Plan (LUP), which was part of its general plan. Plaintiffs failed to identify any law requiring the Director to independently review projects for compatibility with the LUP. The court also reasoned that the City had already determined that the Venice specific plan that created the VSO process complied with the LUP at the time it was enacted. Thus, there was no need for the Director to make this determination again for each VSO. Additionally, the court reasoned that plaintiffs were effectively attempting to challenge approval of the specific plan itself, which was time-barred under the statute of limitations. Lastly, the court held that the City's practice of exempting from the CDP process additions and demolitions of buildings required by a nuisance abatement order did not violate the Coastal Act. The court pointed to language in the Coastal Act explicitly stating that no provision in the Act limited the power of local agencies to declare, prohibit or abate nuisances.

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