

[Blogs](#)

April 16, 2024

Belatedly Filed Amendment to Petition Challenging a Specific Plan Did Not Relate Back to Premature Challenge Filed Before Specific Plan Was Enacted



Petitioner's challenge to a Specific Plan, which was filed before that plan was adopted, was barred as premature, and its belated attempt to amend its petition after the Specific Plan had been adopted was barred by the statute of limitations.

[*Fix the City, Inc. v. City of Los Angeles*](#) 100 Cal. App. 5th 363 (2024).

The City of Los Angeles approved its Metro Exposition Light Rail Transit Line project by enacting certain General Plan and zoning provisions in July 2018. At the time, it considered but did not adopt a Specific Plan for the project. An organization named "Fix the City" filed suit challenging the project, alleging inconsistency with the General Plan. It sought, among other things, to set aside not only the zoning ordinances, but also the not-yet-adopted Specific Plan.

More than a year later, in November 2019, the Council enacted the Specific Plan. Fix did not amend its petition within the statute of limitations applicable to that action. Later, after the trial court ruled that Fix's challenge to the Specific Plan was premature but granted Fix leave to amend, Fix amended its petition to challenge the 2019 Specific Plan. The trial court ruled for the City and Fix appealed.

Fix argued that its amended petition was not time-barred as it related back to the original 2018 filing date. Fix noted that its initial petition had timely challenged the zoning ordinances, and argued that no real significance should be attached to the fact that two legislative acts were involved. It claimed the acts were closely related and noted the zoning ordinances provided they would not become effective until adoption of the Specific Plan. It contended that the Specific Plan claims were based on the same general set of facts as the zoning claims, that the City had timely notice of the claims, that the claims alleged the same injury, and that they were caused by the same instrumentality in that the Specific Plan and zoning ordinance both were inconsistent with the General Plan.

The appellate court rejected Fix's arguments and affirmed a judgment for the City. It observed that the applicable statute of limitations – Government Code section 65009 – was enacted with the express purpose of providing certainty and finality to local land use decisions. Prior caselaw allowing relation back for wrongful conduct of a continuing nature was not applicable, as the City had made two separate legislative decisions. Nor did Fix's amended petition simply add detail to claims alleged earlier; it instead challenged conduct that had not yet occurred at the time the original petition was filed. "Because this case involves two distinct legislative acts governed by section 65009's 90-day statute of limitations, and Fix failed to timely challenge the second legislative act, we conclude that the relation back doctrine does not apply."

Authors

Topics

[Environmental and Land Use Litigation](#)