

Supreme Court No. S187243  
2d Civil No. B216515  
LASC Case No. BS112956

# Supreme Court Copy

**SUPREME COURT  
OF THE STATE OF CALIFORNIA**

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**PACIFIC PALISADES BOWL MOBILE ESTATES, LLC**  
*Plaintiff and Appellant,*

vs.

**CITY OF LOS ANGELES**  
*Defendant and Appellant.*

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**CITY'S OBJECTIONS TO PALISADES BOWL'S REQUEST  
FOR JUDICIAL NOTICE, Exhibits 1-12**

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**CARMEN A. TRUTANICH**, City Attorney (86629x)  
**KENNETH FONG**, Deputy City Attorney (140609)  
**AMY BROTHERS**, Deputy City Attorney (206283)  
700 City Hall East  
200 North Main Street  
Los Angeles, California 90012  
Telephone (213) 978-8069  
Facsimile (213) 978-8214

*Attorneys for Defendant and Appellant*  
**CITY OF LOS ANGELES**

SUPREME COURT  
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700 City Hall East  
200 North Main Street  
Los Angeles, California 90012  
Telephone (213) 978-8069  
Facsimile (213) 978-8214

*Attorneys for Defendant and Appellant*  
**CITY OF LOS ANGELES**

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## I.

### INTRODUCTION

Defendant-Appellant City of Los Angeles (“City”) objects to Plaintiff-Appellant Pacific Palisades Bowl Mobile Estate LLC’s (“Palisades Bowl”) Request for Judicial Notice of Exhibits 1-12. Exhibits 2-12 were not part of the record below. Palisades Bowl requested judicial notice of Exhibit 1 in the Appellate Court. The request was denied. Palisades Bowl’s Request in its entirety fails to meet the requirements of Rule of Court 8.252. Exhibits 1-12 are not relevant on several grounds.

## II.

### **The City Objects to EXHIBITS 1-5 – Gov. Code section 66427.5**

Palisades Bowl offers Exhibits 1-5 to support its theory that Government Code section 66427.5 (“section 66427.5”) is the only state statute applicable to review of subdivisions of mobilehome parks to residentially owned parks. (Opening Brief, p. 18.) Exhibits 1-5 are not relevant for several reasons. Four of the exhibits appear to be letters from individuals or groups and, as such, are not probative of the intent of the Legislature as a whole. Further, none of the five exhibits provide insight on the issue presented in this appeal—

whether section 66427.5 precludes application of the Mello Act and Coastal Act to the conversion of a mobilehome park within the coastal zone.

Palisades Bowl offers Exhibit 1, which purports to be a letter from Senator William Craven to the Governor concerning SB310, the 1995 bill to amend section 66427.5. The letter is a statement of a single legislator which has no bearing on the legal analysis of the issues in this case. The letter makes no mention of the Coastal or Mello Act. In fact, Palisades Bowl sought notice of Exhibit 1 in the Appellate Court. The Appellate Court denied the request as untimely, but also noted that letters from a single legislator are not considered in construing a statute, citing *Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4<sup>th</sup> 1049, 1062.

Palisades Bowl also offers Exhibits 2-5, all of which purportedly concern AB930, a 2002 bill to amend section 66427.5, which did not pass as originally drafted. Exhibit 2 appears to be the version of proposed bill AB930 which was not passed into law. Exhibits 3-4 appear to be an undated description of AB930 by its author and an “alert” by a supporter of the final version of AB930, respectively. Exhibit 5 seems to be a legislative analysis provided for

the aid of the Legislature considering an amendment to section 66427.5.

**A. Exhibits 1-5 Do Not Demonstrate Any Probative Value with Regard to the Question Presented**

Palisades Bowl contends that the Legislature's failure to pass AB930 as originally drafted means that the Legislature "embraced" the holding in *El Dorado Palm Springs, Ltd. v. City of Palm Springs* (2002) 96 Cal.App.4<sup>th</sup> 1153. (Opening Brief, p. 22.) Palisades Bowl first characterizes *El Dorado* as holding that section 66427.5 commands local agencies to limit their review of mobilehome park subdivision applications and preempts consideration of local criteria. Second, Palisades Bowl claims that *El Dorado, supra*, stands for the theory that section 66427.5 is the only state statute applicable to review of these maps. (Opening Brief, pp. 17-18.) The first claim is debatable; the second claim is not borne out by even a generous view of the case. *El Dorado, supra*, never addressed the issue of whether other state statutes might apply to a section 66427.5 subdivision. Instead, the City of Palm Springs attempted to condition approval of El Dorado's subdivision on three locally concocted requirements

which had no basis in state law. *El Dorado*, *supra*, 96 Cal.App.4<sup>th</sup> 1153, 1157, 1165.

Even if Exhibits 2-5 did support the notion that the Legislature agreed with the holding of *El Dorado*, to wit: that section 66427.5 preempts local agency devised conditions, Exhibits 2-5 are not probative with regard to the applicability of the Coastal and Mello Acts to section 66427.5 subdivisions. None of the letters of support, the proposed legislation, or the legislative analysis in Exhibits 1-5 refer generally or specifically to other state statutes and whether or how they would apply to section 66427.5 subdivision applications.

**B. Palisades Bowl's Theory that the Legislature Supported the Holding of El Dorado is Not Supported by Exhibits 2, 3, and 4**

Palisades Bowl claims that, as originally proposed, Exhibit 2 would have overruled the heart of section 66427.5. According to the document Palisades Bowl provided, the originally proposed AB930 authorized local agencies to require any conditions of approval which it determined were necessary to preserve affordability or to protect non purchasing residents from economic displacement. Palisades Bowl characterizes Exhibits 3 and 4 as additional proof that the

original AB930 was meant to attack the heart of the holding of *El Dorado*. (Opening Brief, p. 23.)

Palisades Bowl fails to inform the Court that Exhibits 3-4 do not pertain to the purported “original” version of AB930 set forth in Exhibit 2. Rather, Exhibits 3-4 appear to concern the final version of AB930, which the Legislature passed and which ultimately amended section 66427.5. In fact, the content of Exhibit 4 repeats verbatim the current language of section 66427.5 which has been in effect since 2002, rather than the language in the “original” version of AB930. Palisades Bowl does not provide the date Exhibit 3 was created. Yet, Exhibit 3 refers to a ‘survey of support,’ a provision that was not contained in the “original” version of AB930 set forth in Exhibit 2, but is contained in the current language of section 66427.5, which has been in effect since 2002. Additionally, Exhibit 3, on page 2, in reciting which parties support or oppose the bill, relies upon those parties’ support or opposition to “a previous version of AB930.” If the contents of Exhibits 3-4 actually attack the holding of *El Dorado*, as Palisades Bowl charges, then Palisades Bowl’s theory that the final version of AB930 “emerged [as] a ringing endorsement of [*El Dorado*’s] holdings and rationale across the board” is unsupported.

Exhibit 2, as a failed version of AB930, is not evidence of anything, and certainly not evidence that the Legislature embraced the holding of *El Dorado, supra*.

**C. Statements of one author or supporter are not probative of the intent of the Legislature**

Finally, “[i]t is well settled that individual opinions of legislators or staff members merely reflect their individual opinions, and are not probative of the collegial intent of the Legislature at the time the bill was passed. *El Dorado, supra*, 96 Cal.App.4<sup>th</sup> 1153 citing *Metropolitan Water Dist. v. Imperial Irrigation Dist.* (2000) 80 Cal.App.4<sup>th</sup> 1403, 1426 (declining to consider a letter as evidence of the Legislature’s intent when it adopted the 1995 amendments to section 66427.5). Like the other Exhibits 1, 3 and 4, as an analysis of AB930 by a consultant, Exhibit 5 does not reveal the intent of the Legislature in passing or not passing AB930. Most importantly, the Exhibits 1, 3, 4 and 5 never mention whether or how the Coastal and Mello Acts would apply.

Given the fact that Exhibits 1-5 1) do not discuss the applicability of the Coastal or Mello Acts to section 66427.5 and 2) consist solely of statements of one legislator, supporter or analyst are

not probative of the Legislature's intent in acting or refusing to act, they are not probative of the Legislature's intent in acting or refusing to act. Finally Exhibits 1-5 do not provide evidence that *El Dorado's* holding (whether supported by the Legislature or not), that section 66427.5 preempted the City of Palm Springs' three locally devised conditions with no basis in state law, discussed applicability of any state law requirements on section 66427.5 conversions. Exhibits 1-5 demonstrate no relevance to the question before the Court.

### III.

#### **The City Objects to EXHIBITS 6-11 – The Coastal Act**

With regard to the Coastal Act, Palisades Bowl admittedly selects just 45 pages out of 5000 pages of legislative materials for its judicial notice request. Palisades Bowl contends that Exhibits 6-11 support its theory that the Coastal Act's requirement that a permit be obtained for any "development" in the coastal zone was not meant to apply to subdivisions of mobilehome parks to residential ownership. The Coastal Act defines "development" as "change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land,

including lot splits....” Pub. Rec. Code section 30106. According to Palisades Bowl, the definition of development, for which a permit is required, does not include a subdivision of the type allowed by section 66427.5, because the subdivision does not involve a change in the density or intensity of use. Palisades Bowl allegedly demonstrates this theory by the reference to a few pages out of the 5000 on the topic it provides to the court. The City objects to Exhibits 6-11 as irrelevant.

Exhibit 6 purports to show the definition of “development” in “Proposition 20, the precursor to the Coastal Act, from the official ballot materials for the November 7, 1972 general election.” As Palisades Bowl points out, the definition of development in the purported Proposition 20 materials is almost identical to the definition in the Coastal Act today. (Opening Brief, p. 37.) First, Palisades Bowl may not rely on any portion of the materials in opposition to or in support of Proposition 20 in Exhibit 6 establishes reasons voters passed Proposition 20. *Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4<sup>th</sup> 1049, 1062. Second, it may be true that the definition of development was the same in the 1972 proposed proposition 20. Nonetheless, it is not relevant to, nor does any portion of Exhibit 6

provide information concerning, the issue Palisades Bowl has raised – whether the Coastal Act’s definition of development applies to Palisades Bowl’s subdivision application.

Exhibit 7 purports to be the cover page and table of contents from the California Coastal Plan from December 1975. Palisades Bowl argues that the meaning of development should be narrowly circumscribed, apparently to a few examples from the Coastal Plan, which Palisades Bowl submits to the Court via Exhibits 8-11.

Exhibit 8 purports to contain an approximately 15 page section from the Coastal Plan, entitled “Coastal Development.” Palisades Bowl claims this section is relevant because it “sheds light on” the definition of “development” and “intensity of use.” (Opening Brief, p. 38.) In actuality, the language Palisades Bowl cites merely shows five examples of ways to measure “intensity of use;” signified by the use of “(e.g., ....)” after the phrase “intensity of use.” Since the proffered language in Exhibit 8 does not constitute an exhaustive list and provides only five examples of intensity of use, its relevance is extremely limited. In addition, Palisades Bowl cites to the section “60. Criteria for Divisions of Rural Land.” (Opening Brief, p. 39-40, fn. 11.) Criteria for divisions of rural land do not apply to Palisades

Bowl's proposed subdivision, which is located in the County of Los Angeles along a very busy portion of the Pacific Coast Highway.

Exhibit 9 purports to contain a two page section of the Coastal Plan entitled Further Stages of Planning. Palisades Bowl highlights the portion of Exhibit 9 concerning the need for cumulative impact assessment of all coastal zone development. Palisades Bowl claims that the portion of Exhibit 9 means that the Coastal Plan had a concern with the impact of developing land after subdividing it or after the use was changes. This may be true, but this information is not relevant to the issue Palisades Bowl has raised – whether the Coastal Act's definition of development applies to Palisades Bowl's subdivision application.

Exhibit 10 purports to contain ten pages of map notes and maps from a section entitled "North Coast" of the Coastal Plan. Palisades Bowl is not located in the North Coast section of the state. No portion of Exhibit 10 is relevant to the issues in this appeal.

Exhibit 11 purports to contain three pages from the Glossary of the Coastal Plan. In particular, Palisades Bowl points to the definition of "development" which appears to be the same as the Coastal Act's current definition of "development." Nonetheless, Exhibit 11

provides no insight concerning the meaning of development, and as such, is not relevant to the issue here.

Much of what Palisades Bowl offers to the Court through Exhibits 6-11 are not relevant to the issue of how the Coastal Act would apply to a section 66427.5 subdivision of Palisades Bowl. Taken together, the Exhibits still provide no guidance to this Court concerning how the Coastal Act ought to be applied here.

#### **IV.**

#### **The City Objects to EXHIBIT 12 – the Mello Act**

Finally, Exhibit 12 purports to be an enrolled bill report concerning the amendment to the Mello Act to include mobilehomes as replacement dwellings required to be made available in the event of a conversion or demolition of affordable units. Palisades Bowl appears to claim that since mobilehomes were added to the coverage of the Mello Act in 1982, while the mobilehome park conversion statute section 66427.5 has undergone revision four times, that section 66427.5 must supersede the Mello Act from applying to section 66427.5 subdivisions. Exhibit 12 does not support Palisades Bowl's claims in this regard since it was authored in 1982 and provides no

discussion of section 66427.5's interplay with the Mello Act going forward. Therefore, Exhibit 12 is irrelevant.

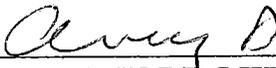
V.

**CONCLUSION**

In conclusion, the City objects to Palisades Bowl's Request for Judicial Notice in its entirety. None of the exhibits proposed are relevant or aid in a determination of the issues.

Dated: March 15, 2011,      Respectfully submitted,

**CARMEN A. TRUTANICH**, City Attorney  
**KENNETH FONG**, Deputy City Attorney  
**AMY BROTHERS**, Deputy City Attorney

By:   
**AMY BROTHERS**  
Deputy City Attorney

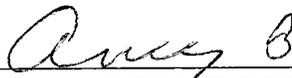
Attorneys for Defendant and Appellant  
CITY OF LOS ANGELES

**CERTIFICATE OF COMPLIANCE**

I, Counsel for Defendant and Respondent, certify that pursuant to California Rules of Court, Rule 8.204 (c) that this CITY'S OBJECTION TO PALISADES BOWL'S REQUEST FOR JUDICIAL NOTICE, Exhibits 1-12 is produced using Times New Roman font, 14 point type size, and contains 2,244 words as counted by the word processing program.

Dated: March 15, 2011      Respectfully submitted,

**CARMEN A. TRUTANICH**, City Attorney  
**KENNETH FONG**, Deputy City Attorney  
**AMY BROTHERS**, Deputy City Attorney

By:   
**AMY BROTHERS**  
Deputy City Attorney

Attorneys for Defendant and Appellant  
CITY OF LOS ANGELES

**PROOF OF SERVICE**

I, the undersigned, declare as follows:

I am over the age of 18 years, and not a party to this action. My business address is 700 City Hall East, 200 North Main Street, Los Angeles, California 90012.

On March 15, 2011, at my place of business at Los Angeles, California, a COPY of the attached **CITY'S OBJECTION TO PALISADES BOWL'S REQUEST FOR JUDICIAL NOTICE, Exhibits 1-12** was placed in a sealed envelope addressed to:

SEE ATTACHED SERVICE LIST

**BY MAIL** - I deposited such envelope in the mail at Los Angeles, California, with First class postage thereon fully prepaid. I am readily familiar with the business practice for collection and processing of correspondence for mailing. Under that practice, it is deposited with the United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED on March 15, 2011, at Los Angeles, California.

  
\_\_\_\_\_  
GUADALUPE LOPEZ

PACIFIC PALISADES BOWL MOBILE ESTATES, LLC,

vs.

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2<sup>nd</sup> Appellate District – Div. 4  
300 S. Spring St., 2<sup>nd</sup> Floor  
Los Angeles, CA 90012

Honorable James C. Chalfant  
c/o Clerk – Dept. 85  
Los Angeles Superior Court  
111 North Hill Street  
Los Angeles, CA 90012

City Clerk of City of Los Angeles  
200 N. Spring St., Room 360  
Los Angeles, CA 90012

Craig M. Collins, Esq.  
Blum Collins, LLC  
707 Wilshire Blvd., Suite 4880  
Los Angeles, CA 90017  
*Attorneys for Respondent and  
Cross-Appellant PACIFIC  
PALISADES BOWL MOBILE  
ESTATES, LLC*

Elliot Bien, Esq.  
Bien & Summers  
23 Palomino Road  
Novato, CA 94947  
*Attorneys for Respondent and  
Cross-Appellant PACIFIC  
PALISADES BOWL MOBILE  
ESTATES, LLC*

Pacific Palisades Bowl  
Residents' Ass'n.  
Sunny K. Soltani  
Aleshire & Wynder, LLP  
18881 Von Karman Ave., #400  
Irvine, CA 92612

William J. Constantine, Esq.  
303 Potrero St., Ste. 29-104  
Santa Cruz, CA 95060-2783