

BUSINESS & FACILITIES UPDATE

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The Substantial Compliance Doctrine Cannot Be Used By A Suspended Corporation To Defeat The Short Statute Of Limitations In Actions Involving CEQA Or The Planning And Zoning Law.

The County of El Dorado approved a project involving the construction of a Circle K convenience store and gas station adjacent to Highway 50 at the Shingle Springs Interchange near Placerville. Friends of Shingle Springs Interchange, Inc. (“FSSI”) filed a petition for writ of mandate on September 2, 2009 alleging violations of the California Environmental Quality Act (“CEQA”), the Planning and Zoning Law, and the County’s traffic safety regulations. FSSI complained that the County failed to consider the traffic impacts and the fact that the project site was too small for the proposed use.

FSSI’s corporate status was suspended from 2007 through November 4, 2009, two months after it filed the writ. Respondents demurred to the petition, claiming that FSSI lacked capacity to sue and the CEQA and Planning and Zoning Law causes of action were barred by the statute of limitations. FSSI argued that it substantially complied with the corporate suspension and revivor statutes before the statute of limitations ran.

The court considered the case of *Sade Shoe Co. v. Oschin & Snyder* (1990) 217 Cal.App.3d 1509 [266 Cal.Rptr. 619] (*Sade Shoe*) in its analysis to determine whether substantial compliance should apply. In *Sade Shoe*, a corporation’s substantial compliance with payments required by the Revenue and Taxation Code was insufficient to provide the corporation with standing to proceed with its lawsuit. The *Sade Shoe* court held that to allow the corporation to proceed would defeat the legislative goal of pressuring corporations to pay money owed to the state.

The court analyzed the policy reasons underlying the short limitations periods associated with CEQA and Planning and Zoning Law challenges to determine whether substantial compliance may apply. There exists a legislative concern that CEQA challenges would cause potential serious injury to the real party in interest if they are permitted to drag on. As a result, CEQA lawsuits are given calendar preference, expedited briefing and hearing schedules, and courts in populous counties must designate judges to develop CEQA expertise to allow for prompt disposition of claims. Similarly, the policy underlying the short statute of limitations of the Planning and Zoning Law is to prevent the chilling effect a lawsuit can cause to property owners and local governments to proceed with projects.

The court held that applying the doctrine of substantial compliance to defeat the

shortened statutes of limitations in land use actions would frustrate the legislative purpose of those statutes.

Friends of Shingle Springs Interchange, Inc. v. County of El Dorado (2011) 200 Cal.App.4th 1470 [__ Cal.Rptr.3d __].

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