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# COURT TOSSES CHALLENGE TO APPROVAL OF ANNEXATION AND CHANGE IN SPHERE OF INFLUENCE

## LEGAL ALERTS

### Court Decision Benefits Public Agencies and Land Developers Defending CEQA and LAFCO Challenges

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A California appellate court confirmed that once a Local Agency Formation Commission (LAFCO) approves an annexation or a change in a sphere of influence, a challenge to such approvals under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Reorganization Act) or the California Environmental Quality Act (CEQA) must be brought as a reverse validation action that complies with specific notice and publication requirements. The published decision in *Protect Agricultural Land v. Stanislaus County Local Agency Formation Commission* is a victory for public agencies and project proponents defending legal challenges to LAFCO approvals that do not follow the proper procedures.

The City of Ceres sought to annex a 960-acre area as part of its West Landing Specific Plan Reorganization. The city certified an Environmental Impact Report and authorized the submission of an application to the Stanislaus County LAFCO for modification of the city's sphere of influence and annexation of the area. Stanislaus County LAFCO approved the proposal. The plaintiff sought a writ of mandate alleging that the LAFCO had violated CEQA and the Reorganization Act, and requested the LAFCO be ordered to set aside and void its approvals.

Once an annexation determination is completed, its validity may only be challenged by a validation action as provided for in the Reorganization Act, Government Code section 56103. The public agency may test the legal validity of its acts by filing an *in rem* validation action within 60 days. If that does not occur, as in this case, then any interested person may file a reverse validation action to challenge the validity of the public agency's acts under the notice procedures in Code of Civil Procedure section 863. Unless a validation action or reverse validation action is filed within this time frame, the approval is deemed valid.

Here, the plaintiff failed to timely publish a summons giving notice of the action to persons interested in the matter and to the public agency, and to file proof thereof within 60 days from the filing of the complaint, as required under Code of Civil Procedure section 863. The Court of Appeal agreed with the trial court's finding that the plaintiff did not show "good cause for such failure," as provided for in the statute, in response to the plaintiff's claim that its failure was due to inadequate legal research by its attorney. The Court of Appeal therefore affirmed the trial court's decision to

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dismiss the plaintiff's cause of action under the Reorganization Act.

The court also held that Government Code section 56103 applies to CEQA claims seeking to invalidate a LAFCO's approval of an annexation or modification of a sphere of influence, citing the 1980 decision *Hills for Everyone v. Local Agency Formation Commission* as precedent. Accordingly, the procedures that apply to a reverse validation action also apply to those particular types of CEQA claims against a LAFCO.

For more information on how this decision may affect your projects and policy initiatives, or any land use matter, contact one of the attorney authors of this legal alert listed at right in the Municipal Law and Environmental & Natural Resources Law practice groups, the Zoning, Planning and Land Use group, or your BB&K attorney.

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