

A Big Pro Bono Victory for Emergency Shelter Coalition

07.2016

On behalf of the Emergency Shelter Coalition, Irell & Manella LLP and a team of Orange County law firms have scored a major victory in Orange County Superior Court, obtaining grant of a peremptory writ of mandate against the City of San Clemente to vacate an existing zoning ordinance for emergency homeless shelters and immediately prepare an amended ordinance that complies with the requirements of state law.

In 2007, the State of California passed Senate Bill No. 2 ("SB 2") which required, among other things, that cities adequately zone land to facilitate the development of emergency homeless shelters. The statute requires that parcels zoned for shelter development be available as a matter of right, "without conditional use or other discretionary permit." After delaying compliance for nearly seven years, the San Clemente City Council eventually adopted a zoning ordinance that purported to comply with SB 2, but in fact only zoned City and municipal properties with availability subject to multiple layers of municipal discretion. Moreover, the parcels zoned by the City for shelter development consisted of properties that could not be used for a shelter such as the public library, City Hall, a local sewage treatment plant, municipal water reservoirs, beach parking lots, water towers, etc. Far from fulfilling SB 2's purpose to facilitate the development of emergency homeless shelters, the City's ordinance appeared tailor-made to ensure that no shelter could ever be established within San Clemente.

A small law firm filed a lawsuit challenging the City's zoning ordinance in December 2014. Irell and several other prominent OC law firms signed on as co-counsel and filed a petition for a writ of mandate, which was granted by the Court on July 1, 2016. The Court ordered the City to vacate and set aside its existing shelter ordinance and to immediately comply with its duties to fully and properly establish at least one zone in which emergency shelters will be permitted by right without the need for further discretionary approvals by the City. The Court further ordered that the City demonstrate that adequate capacity exists to meet the City's needs for emergency shelters and promulgate development standards designed to encourage and facilitate the development of emergency shelters.

The Irell team includes Kamran Vakili. Besides Irell, the team includes attorneys from Connor, Fletcher & Hedenkamp LLP, O'Melveny & Myers LLP and Keller/Anderle LLP.