

Structure of the California Coastal Commission Violates Separation of Powers Clause of the California Constitution

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Sheppard, Mullin, Richter & Hampton LLP announced today that the Firm filed an Amicus Curiae Brief on behalf of five trade associations—the Home Builders Association of Northern California, the California Building Industry Association, the Building Industry Legal Defense Foundation, the Building Industry Association of San Diego, and the California Association of Realtors ("Homebuilders"). **The Homebuilders supported Marine Forest Society's claim that the Coastal Commission violates the separation of powers doctrine.**

In a 29-page unanimous opinion, the California Court of Appeal, Third Appellate District, based in Sacramento, upheld the trial court's ruling that structure of the Coastal Commission violates the Separation of Powers Clause of the California Constitution. Although the Commission is housed in the executive branch (in the Resources Agency), two-thirds of its voting members are appointed by the State Legislature. Those members can be removed at will by the Legislature, thus giving the Legislature undue control over a purportedly executive branch agency. The Court found that this "materially impairs the executive power's ultimate authority over the execution of the laws..."

Dave Lanferman, of the Firm's Real Estate, Land Use, Natural Resources & Environment Practice Group in San Francisco, said, "The Court's opinion presents a good opportunity for California to enhance its coastal protection by providing the types of checks and balances in the structure of the Coastal Commission envisioned by the Constitution and the Court."

Tom Roth, of the Firm's Real Estate, Land Use, Natural Resources & Environment Practice Group in San Francisco, added, "The State of California now has the obligation to reorganize the Coastal Commission to ensure that the agency will fulfill its duties consistent with the State Constitution when reviewing coastal projects."

The opinion can be viewed here.

Sheppard Mullin's Real Estate, Land Use, Natural Resources & Environmental Practice Group is one of the most prominent in California, having notable specialized expertise in all areas of land use regulation, including land use approvals and permitting; subdivision map approvals and planned unit developments; wetlands; endangered species and critical habitat designation; Coastal Commission approvals; state lands, public trust and other waterfront jurisdictional use limitations and permitting; CEQA and NEPA; redevelopment law; historic preservation; toxic and hazardous materials compliance and clean-up; and administrative appeals, takings, eminent domain and other land use litigation.

Sheppard Mullin has more than **330 attorneys** among its **seven offices** in Los Angeles, San Francisco, Orange County, San Diego, Santa Barbara, West Los Angeles, and Del Mar Heights. The **full-service firm** provides counsel in Antitrust & Trade Regulation; White Collar and Civil Fraud Defense; Business Litigation; Construction, Environmental, Real Estate, Land Use Litigation & Natural Resources; Corporate; Finance & Bankruptcy; Financial Institutions; Government Contracts & Regulated Industries; Healthcare; Intellectual Property; Labor & Employment; and Tax, Employee Benefits, Trusts & Estates. **The firm is celebrating its 75th anniversary in 2002.**

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