

General Municipal Litigation Update

League of California Cities
City Attorneys' Department Virtual Spring Conference
May 7, 2021

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WHATLEY, PC

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Holly O. Whatley

Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Ste. 850
Pasadena, CA 91101
(213) 542-5704
HWhatley@chwlaw.us

www.chwlaw.us

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Agenda

- Municipal Finance
- Government Claims Act
- Elections
- Open Government
- Miscellaneous

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Municipal Finance

HJTA v. City and County of San Francisco **(2021) 60 Cal.App.5th 227**

- Special taxes do not require two-thirds voter approval if proposed by local initiative.
- Consistent with *City and County of San Francisco v. All Persons Interested in the Matter of Proposition C* (2020) 51 Cal. App. 5th 703

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Municipal Finance

HJTA v. City and County of San Francisco **(2021) 60 Cal.App.5th 227 (con't)**

- That elected officials promoted the voter initiative did not change the result; only majority approval required
 - Court declined to hold "local government" includes initiatives promoted by elected officials
 - Court narrowly construed provisions that would otherwise burden the initiative power

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Municipal Finance

• ***Humphreville v. City of Los Angeles*** (2020) 58 **Cal.App.5th 115**

- When electricity rates do not exceed costs of service, a municipal electricity provider's annual transfer of surplus funds to General Fund does not violate Props. 13, 218 or 26



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Municipal Finance

- ***Mahon v. City of San Diego* (2020) 57 Cal.App.5th 681**

- City ordinance that provided funding for undergrounding electric lines via surcharge on electric ratepayers, the surcharge was compensation validly given in exchange for franchise rights and was not a tax subject to voter approval under Proposition 218.



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Pop Quiz

- Is a church constitutionally exempt from a non-ad valorem property tax pursuant to the California Constitution?

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Municipal Finance

- ***Malott v. Summerland Sanitary District (2020)***
55 Cal.App.5th 1102

- Petitioner challenging utility rates need not vote "no" or specify basis for challenge at Prop. 218 hearing before filing suit
- Petitioner's after-the-fact expert testimony, even if not presented before rates adopted, permitted in rate challenge as relevant
- Pending Supreme Court review in *Hill RHF Housing Partners, L.P. v. City of Los Angeles (2020)* 51 Cal.App.5th 621 (review granted Sept. 16, 2020) may provide guidance on the continuing viability of this decision.

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Gov't Claims Act

- ***Lowry v. Port San Luis Harbor District (2020)***
56 Cal.App.5th 211

- Complaint filed against a public agency before the agency rejected an otherwise timely claim does not satisfy the Government Claims Act.



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Elections

- ***Denny v. Arntz* (2020) 55 Cal.App.5th 914**

- Statutory challenges to the sufficiency of ballot materials, including impartial analyses, cannot be made post-election.
- Elections Code section 16100 does not authorize overturning an election after the fact based on alleged statutory deficiencies in ballot materials.

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Open Government

- ***Collondrez v. City of Rio Vista* (2021) 61 Cal.App.5th 1039**

- For purposes of SB 1421, a “sustained finding” of misconduct exists where agency finds misconduct, but the parties settle before the officer’s administrative appeal concludes
- When an agency discloses records regarding a sustained finding of dishonesty, it may not redact findings regarding other forms of misconduct arising from the same incident except as otherwise permitted in Penal Code section 832.7, subdivision (b)(5)



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Poll Question

- What year and model is this historic Rio Vista Police Department cruiser?
 - 1950 Dodge Rio
 - 1950 Dodge Coronet
 - 1954 Dodge Royal
 - 1951 Dodge Kingsway



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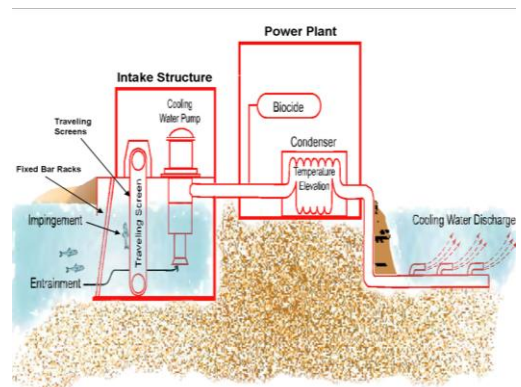
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Open Government

• *U.S. Fish and Wildlife Service v. Sierra Club (2021)* --- U.S. ---, 141 S.Ct. 777

- Under FOIA, the deliberative process privilege protects in-house **drafts** that are both predecisional and deliberative from disclosure even if the drafts reflect the agencies' last views
- Because courts interpreting the CPRA often look to precedent interpreting FOIA, this decision may be helpful in cases involving deliberative process privilege claims under the CPRA



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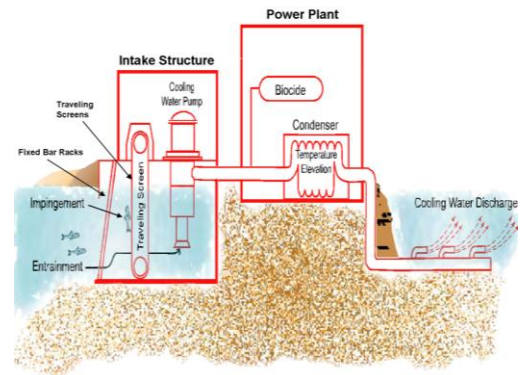
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Poll Question

How many pages was the final adopted EPA regulation regarding cooling water intake structures?

- 18
- 141
- 532
- 978
- 1297



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Miscellaneous

• *County of Sonoma v. U.S. Bank N.A., et al.* (2020) 56 Cal.App.5th 657

- A trial court could give a receiver's certificate super-priority status over a bank's lien so receiver could remediate nuisance conditions on a property.
- But trial court abused its discretion in giving the county's enforcement costs super-priority status without considering competing lienholder claims

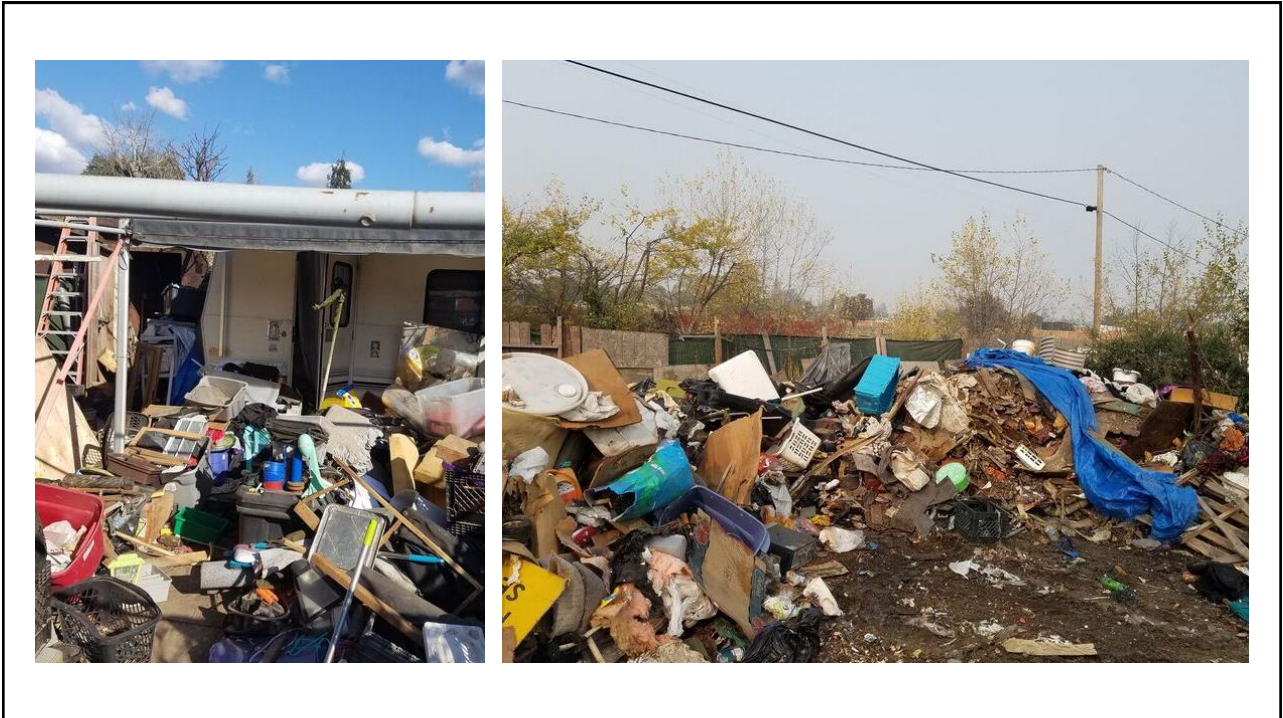
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