

August 7, 2017

Chief Justice Tani Cantil-Sakauye and the
Associate Justices of the California Supreme Court
350 MacAllister Street
San Francisco, CA 94102

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to California Rules of Court, rule 8.500(g), the League of California Cities ("League") and the California State Association of Counties ("CSAC") respectfully submit this letter in support of the Petition for Review filed by the City of Morgan Hill ("City") in *City of Morgan Hill v. Bushey*, California Supreme Court (S243042); 12 Cal.App.5th 34, 6th District Court of Appeal (May 30, 2017) (H043426); Superior Court for the County of Santa Clara (CV292595) (March 29, 2016). Amici submit that review of the decision in this case is necessary to settle important questions of law and secure uniformity of decision. (California Rules of Court, rule 8.500, subd. (b)(1).)

I. Interest of the League and CSAC

The League of California Cities is an association of 475 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is

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of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 571.) The Legislature has made explicit its command that zoning (and indeed all land use decisions) be consistent with general plans. (See Government Code § 65860.) “A zoning ordinance that conflicts with a general plan is invalid at the time it is passed.” (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544.) “The requirement of consistency ... infuse[s] the concept of planned growth with the force of law.” (*Orange Citizens, supra*, 2 Cal.5th at 153.)

This case not only implicates both important issues, it involves how cities and counties must harmonize them under short deadlines and substantial public pressure and controversy. It is difficult for amici to conceive of a case involving more important issues of land use law. Again, amici do not at this time advocate which decision’s rationale this Court should adopt. Rather, given the importance of the issues, amici simply emphasize that cities and counties ought not be required to choose which decision they prefer, or guess at an outcome.

III. Conclusion

The decision of the Sixth District conflicts with the decisions of the Fourth District, and thereby unsettles an important point of law resolving whether and how cities must address zoning referenda that would create inconsistencies with General Plans. This new conflict places cities and counties that must regularly respond to referenda in the untenable position not only of choosing which decision to follow, but also of trying to explain that choice to their citizens. Amici respectfully request that the Court grant review and provide guidance on this important question.

Very truly yours,



Thomas B. Brown
Partner

TBB:tlb

PROOF OF SERVICE

I, Teresa L. Beardsley, declare:

I am a citizen of the United States and employed in Alameda County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1901 Harrison Street, Suite 900, Oakland, California 94612-3501. On August 7, 2017, I served a copy of the within document(s):

AMICUS LETTER BRIEF

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Oakland, California addressed as set forth below.
- by placing the document(s) listed above in a sealed GSO envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a GSO agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same

1 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
2 motion of the party served, service is presumed invalid if postal cancellation date or postage
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4 I declare that I am employed in the office of a member of the bar of this court at whose
5 direction the service was made.

6 Executed on August 7, 2017, at Oakland, California.

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9 Teresa L. Beardsley

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