



1100 K Street  
Suite 101  
Sacramento  
California  
95814  
Telephone  
916.327.7500  
Facsimile  
916.441.5507

February 2, 2018

Hon. Sandy R. Kriegler, Acting Presiding Justice  
Hon. Lamar W. Baker, Associate Justice  
Hon. Kim Dunning, Justice Pro Tem  
California Court of Appeal  
Second Appellate District, Division Five  
300 South Spring Street  
Second Floor, North Tower  
Los Angeles, California 90013

Re: Request for Publication  
*Janine Johnston, et al. v. City of Hermosa Beach*  
Case No. B278424 (Superior Court No. BS163448)

Dear Honorable Justices of the Second District Court of Appeal, Division Five:

Pursuant to California Rule of Court 8.1120(a), the League of California Cities (the League) and the California State Association of Counties (CSAC) respectfully request that this Court publish its opinion in *Janine Johnston, et al. v. City of Hermosa Beach*, Case No. B278424.

**I. Interest of the League and CSAC**

The League 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 comprises 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that are of statewide or nationwide significance. The Committee has identified this case as having such significance.

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter of statewide importance.

## **II. Reasons Opinion Should be Published**

The League and CSAC believe that publication of the opinion in this case is warranted for all of the same reasons stated by the City of Hermosa Beach in its January 31, 2018 Request for Publication of Opinion.<sup>1</sup> The League and CSAC write separately to underscore that the opinion in this case “[i]nvolves a legal issue of continuing public interest.” (Cal. Rules of Court, rule 8.1105(c)(6).)

The adoption of local land use and zoning regulations has long been recognized as a fundamental exercise of the legislative power of local government. (See, e.g., *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 782; *Big Creek Lumber Co. v. City of Santa Cruz* (2006) 38 Cal.4th 1139, 1159.) The California Constitution vests cities and counties with broad “police power” to adopt land use and zoning ordinances. (Cal. Const. art. XI, § 7.) That police power is not a “circumscribed prerogative,” but is plenary and “elastic” in order that local officials can creatively address the evolving needs and concerns of their communities. (*Fisher v. City of Berkeley* (1984) 37 Cal.3d 644, 676.)

Counties and cities have a clear interest in ensuring that courts continue to construe the Coastal Act in a way that properly harmonizes the Act with local land use authority, thereby preserving important constitutional separation of powers principles. Clear guidance on dividing lines between local and state authority in the coastal zone will increase efficiency in the local legislative process and cut down on disputes that may lead to costly litigation. The court’s opinion in this case provides such clear guidance and thus, is a matter of statewide continuing public interest. Therefore, the League and CSAC respectfully request publication.

Respectfully submitted,

/s/

Jennifer B. Henning, SBN 193915  
On behalf of the League of California Cities  
and the California State Association of Counties

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<sup>1</sup> The League and CSAC have reviewed the City of Hermosa Beach’s Request for Publication and do not seek to duplicate but supplement the arguments set forth in that letter, in the interest of efficiency and judicial economy.