Case No: S129125

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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CLERK SUPREME COURT

THE CITY OF GOLETA; THE CITY COUNCIL
OF THE CITY OF GOLETA
Petitioner,
vs.
SANTA BARBARA SUPERIOR COURT,
Respondent,

OLY CHADMAR SANDPIPER GENERAL PARTNERSHIP,
a Delaware Corporation
Real Party in Interest,

On Petition for Review of Decision of the Court of Appeal
Second District, Division Six
Case No. B175054

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
and
***AMICUS CURIAE* BRIEF**
of
LEAGUE OF CALIFORNIA CITIES

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TO THE HONORABLE CHIEF JUSTICE RONALD M. GEORGE AND ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Pursuant to California Rule of Court 29.1(f), the League of California Cities ("League") respectfully seeks this Court's permission to file the attached *amicus curiae* brief in support of Real Parties in Interest City of Goleta and City Council of the City of Goleta (collectively "Goleta").

The League submits its attached *amicus curiae* brief, which is based on the experience and perspective of the League, in the hope that it may assist this Court in evaluating the appellate court's decision overturning the trial court's holding that Goleta is barred, under the doctrine of equitable estoppel, from exercising the discretion it possesses, under Government Code section 64413.5(f), to deny a tentative subdivision map that was approved by the County of Santa Barbara prior to Goleta's incorporation. Goleta's authority in this regard is a reflection of a strong public policy to ensure newly incorporated cities an opportunity for meaningful review of developments proposed within their jurisdictions following the onset of incorporation. It is well established in case law that only a rare and extraordinary combination of government conduct and extensive reliance thereupon will give rise to an invocation of the doctrine of equitable estoppel against a government agency. Several, if not all, of the factual circumstances upon which the trial court relied in invoking equitable estoppel in this case are, instead, ordinary and typical of newly incorporated cities. If this Court were to reverse the appellate court and uphold the trial court's ruling based upon these facts, it would establish a negative precedent that would seriously inhibit the ability of cities to govern.

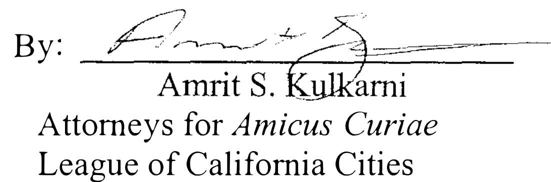
The League's counsel have reviewed the briefs on file in this case. The League does not seek to duplicate or respond to the arguments set forth

in these briefs. Rather, based on the familiarity of the League and its counsel with the issue posed in this case, the League seeks to show both the legal and practical problems with the trial court's holding in this case regarding application of the doctrine of equitable estoppel. The League, accordingly, respectfully requests that this Court grant leave to file the attached *amicus curiae* brief.

Respectfully submitted,

Dated: June 9, 2005

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: 
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I. Statement of Interest of the Amicus Curiae

Amicus Curiae League of California Cities ("League") is an association of 476 California cities united in promoting the general welfare of cities and their citizens. The League is advised by its Legal Advocacy Committee, which is comprised of twenty-four city attorneys representing all sixteen divisions of the League from all parts of California. The Committee monitors appellate litigation affecting municipalities and identifies those that are of statewide significance.

The League is in a unique position to provide insight to this Court on the effects of estopping a city from exercising its discretion over land use decisions that affect the city's ability to protect the health and welfare of its citizens and to govern. The League urges that the decision of the Court of Appeal be upheld in this matter. For the reasons stated in this brief, the City of Goleta should not be estopped from exercising the discretion granted to newly incorporated cities to deny a final subdivision map previously approved by the county.

The League files this brief pursuant to California Rule of Court 29.1(f), and has filed an accompanying motion seeking leave to file this brief.

II. Introduction

This case raises the important issue whether a government entity may be estopped from denying approval of a development based on its reasonable interpretation of a law that grants it the discretion to do so, merely because the city upheld its ministerial obligation to administratively process the application for that project. Here, the City of Goleta ("Goleta") denied an application for approval of a final subdivision map submitted by Oly Chadmar Sandpiper General Partnership ("Oly Chadmar") that had previously been approved, in tentative form, by Santa Barbara County. In denying Oly Chadmar's final map, Goleta relied on Government Code

section 66413.5, which affords newly incorporated cities the discretion to deny approval of a final map if certain circumstances exist. Oly Chadmar then filed suit alleging that Goleta lacked discretion to deny the final map, and even if it did have such discretion, was estopped from exercising it because Oly Chadmar had relied on the conduct of Goleta in processing the application to its detriment. The trial court ruled, among other things, that Goleta was estopped from denying the final map. The Court of Appeal correctly reversed that ruling.

The doctrine of equitable estoppel is an extreme remedy that courts only apply to avoid manifest injustice and prevent fraud. Equitable estoppel provides that a person may not deny the existence of a state of facts if he intentionally led another to believe a particular circumstance to be true and that person relied on such belief to their detriment. Estoppel, however, is applied against the government in the rarest instances, and never when it would result in the nullification of a strong rule of policy adopted for the benefit of the public. In the exceptional cases where equitable estoppel has been applied against the government, there was clear evidence of intentional wrongdoing on the part of the government and detrimental reliance by the party claiming estoppel.

This is not such a case. There is no evidence that Goleta intentionally and falsely led Oly Chadmar to believe Goleta would approve the final map. To the contrary, prior to Goleta's denial of Oly Chadmar's map, Goleta merely fulfilled its ministerial duty to process Oly Chadmar's application. Throughout the administrative processing of Oly Chadmar's application, Goleta staff clearly conveyed to Oly Chadmar that they were not comfortable with recommending approval of the final map. Nor is there evidence of justifiable reliance by the developer. Any expectation by Oly Chadmar that this newly incorporated city would approve the map merely because it had processed the application was wholly unreasonable

and certainly not the type of conduct to justify the extreme remedy of estoppel.

The application of equitable estoppel in this case is unsupported by law, or the evidence in the record, and reversal of the appellate court's ruling would establish a negative precedent that would severely impair cities' ability to carry out the most routine actions. The League, therefore, respectfully requests that the Court uphold the Court of Appeal's decision denying Oly Chadmar's claim of estoppel.

III. Statement of Facts

On July 4, 1999, the first signature was collected in support of incorporation of the City of Goleta, which was at the time an unincorporated area of Santa Barbara County. Vol. 19, p. 6003.[1] On November 18, 1999, Oly Chadmar submitted an application for a vesting tentative map to the County of Santa Barbara ("County") for a residential project located in the then unincorporated area of Goleta. *Id.* The County Planning Commission approved the vesting tentative map and development plan on October 31, 2001. Vol. 19, p. 6004. Two citizens groups in Goleta filed protests regarding the Planning Commission's decision. *Id.* An election on the incorporation issue for the City of Goleta was held on November 6, 2001, and incorporation was approved by the voters on that day. *Id.*

After the election approving incorporation, the City Council-Elect requested that the County Board of Supervisors henceforth not make any land use decision on properties located in the newly incorporated City of Goleta, but instead refer all these pending decision to the new City Council.

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[1] Citations are to the volumes and page numbers before this Court as the record in this matter, and comprising the Exhibits filed in the Court of Appeal in support of and in opposition to the City of Goleta's Petition for Alternative Writ or Other Extraordinary Relief.

Vol. 19, p. 5992. Specifically, the Mayor-Elect of Goleta stated in a letter to the County Board of Supervisors, dated November 28, 2001, that the new Goleta City Council wanted to review the Planning Commission's decision on the Oly Chadmar project because of the environmental and ecological significance of the project site to the City of Goleta. *Id.* Notwithstanding the Mayor's request, the County Board of Supervisors held a public hearing on the appeals of the Planning Commission's December 4, 2001 decision on Oly Chadmar's map. Vol. 20, p. 6214. During the hearing, the County Counsel advised the Board that Government Code section 66413.5 could affect the finality of the Board's decision. Vol. 20, pp. 6214-216. Nonetheless, the Board denied the appeal on January 15, 2002, and approved the vesting tentative map and development plan for the Oly Chadmar project. Vol. 19, p. 6004.

On February 1, 2002, Goleta's incorporation became effective and the County's subdivision ordinance automatically was adopted by Goleta by operation of law, pursuant to Government Code section 57376. *Id.* Goleta adopted a 45-day moratorium on approval of any development proposals, including Oly Chadmar's, on February 11, 2002. Vol. 19, p. 6036. A consultant hired by Goleta, still having concerns about the project, emailed County Staff on March 18, 2002, advising that "there continues to be a high level of interest in this project from both the community and the council." The County promptly forwarded this message to Oly Chadmar. Vol. 14, p. 4351. Goleta continued to openly convey its concerns about Oly Chadmar's project, again communicating these concerns in the form of a June 4, 2002, email from the Interim City Attorney of Goleta to County staff (which the County immediately forwarded to Oly Chadmar) stating that "the City has had some serious concerns about jurisdictional and substantive issues regarding this project...please take no further action with regard to this project until further notice from the City." Vol. 14, p. 4429.

Notwithstanding Goleta's clear and consistent objections to the Oly Chadmar project, the County approved a coastal development permit for the Oly Chadmar project on May 23, 2002. Goleta subsequently appealed this decision to the California Coastal Commission, which elected not to consider the appeal's substantive merits. *Id.* On November 27, the County engineer delivered the final subdivision map to Goleta and opined that it was technically correct and in compliance with Goleta's subdivision map ordinances. Vol. 19, p. 6004-007. Goleta considered Oly Chadmar's final subdivision map at public hearings on November 27, 2002, and January 6, 2003. *Id.* Following these hearings, Goleta denied approval of Oly Chadmar's final map. Vol. 19, p. 6003-014.

Oly Chadmar filed a petition for writ of mandate challenging Goleta's decision on the final map, alleging that Goleta had no discretion to deny that map. Vol. 1, p. 1-30. Goleta countered at trial that Government Code section 66413.5 afforded it discretion to deny the final map, since the tentative map had been applied for after the first signature for incorporation was collected and the County's ultimate decision on the tentative map had occurred after incorporation of Goleta. *Id.* The trial court granted the writ, concluding that section 66413.5 grants discretion only when a city has somehow moved to invalidate the earlier tentative map and additionally ruling that Goleta was estopped from denying the final map because it had led Oly Chadmar to believe the map would be approved. Vol. 2, p. 429. Goleta then filed a petition for writ of mandate with the Court of Appeal. Court of Appeal Decision, *City of Goleta v. The Superior Court of Santa Barbara County* (2004) 19 Cal.Rptr.3d 356, 359. The Court of Appeal reversed the trial court and determined that Government Code section 66413.5 did provide discretion for Goleta to deny Oly Chadmar's final map and that Goleta was not estopped from doing so. *Id.* at 363. It is from this decision that Oly Chadmar appeals.

IV. Summary of the Issues

1. Is a newly incorporated city estopped from denying approval of a final subdivision map when the county approved the tentative map?

V. Legal Argument

A. A City Should Not be Estopped from Exercising the Discretion Afforded to It by Law.

Estoppel is an extreme remedy and should only be applied to avoid manifest injustice and prevent fraud. *Stepp v. Williams* (1921) 52 Cal.App. 237, 255. Its invocation is appropriate only when there is no adequate remedy in law and one party has intentionally and falsely induced another to rely on its fraudulent statements. *Id.* In this case, Goleta made clear from the time of its incorporation that it regarded Oly Chadmar's map to be within its discretion to approve or deny. Consequently, Oly Chadmar's claim that Goleta's administrative processing of the map led Oly Chadmar to believe the map was bound to be approved rings false. Far more is required to apply equitable estoppel to a public agency than the circumstances of this case.

The doctrine of equitable estoppel prevents one party from taking unfair advantage of another through false language or conduct that induces the other party to rely on this falsity to take an action that causes an injury. *Strong v. County of Santa Cruz* (1975) 15 Cal.3d 720, 725. In order for estoppel to be applied, all of the following elements must be satisfied: "(1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury." *City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 488-89.

Equitable estoppel may only be applied against a government agency in cases of intentional wrongdoing by the agency and never where application of the doctrine would nullify a strong rule of policy adopted for the benefit of the public. *Strong v. County of Santa Cruz*, *supra* 15 Cal.3d at 725. This rule is especially important in the land use context: "[t]he public and community interest in preserving the community patterns established by zoning laws and ordinances outweighs the injustice that may be incurred by the individual in relying upon an invalid permit to build issued in violation of those laws." *Burchett v. City of Newport Beach* (1995) 33 Cal.App.4th 1472, 1480; see also *Shea Homes Ltd. Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246 (estoppel inapplicable despite significant design, engineering, and environmental review expenses incurred by developer, because the landowner had not yet received initial county approval for the project and had not been issued the equivalent of a building permit).

As stated by one court:

> [a plaintiff] faces daunting odds in establishing estoppel against a governmental entity in a land use case. Courts have severely limited the application of estoppel in this context by expressly balancing the injustice done to the private person with the public policy that would be supervened by invoking estoppel to grant development rights outside of the normal planning and review process. The overriding concern is that public policy may be adversely affected by the creation of precedent where estoppel can too easily replace the legally established substantive and procedural requirements for obtaining permits. Accordingly, estoppel can be invoked in the land use context in only the most extraordinary case where the injustice is great and the precedent set by the estoppel is narrow. *Toigo v. Town of Ross* (1988) 70 Cal.App.4th 309, 321, citations omitted.

Furthermore, equitable estoppel is an equitable remedy and is only to be applied when there is an inadequate remedy at law.

Pacific Scene, Inc. v. Penasquitos, Inc. (1988) 46 Cal.3d 407, 414. It is reserved for extreme cases, such as when the party urging estoppel is deprived of a legal remedy because the statute of limitations has run, the statute of frauds was not complied with, or in contract claims where something specific was bargained for. *See Mills v. Forestex Co.* (2003) 108 Cal.App.4th 625, 652 (estoppel applied when defendant's conduct, relied on by the plaintiff, induced the plaintiff to postpone filing the legal action until after the statute of limitations had run); *Byrne v. Laura* (1997) 52 Cal.App.4th 1054, 1069-1070 (party estopped from asserting statute of frauds where an oral promise was made to transfer the land); *Estate of Housley* (1997) 56 Cal.App.4th 342, 351-54 (estoppel can be used to enforce the terms of an oral contract for performance). In these situations, the party seeking to apply estoppel had no recourse if estoppel was not applied, as their claim would have been barred or they would have been deprived of the specific item or performance they had bargained for.

Furthermore, in the rare cases where courts have applied equitable estoppel against a government agency, there was clear evidence of wrongdoing by the government entity. *Los Angeles v. Cohn* (1894) 101 Cal. 373 (city estopped from claiming land as public street when 20 years prior it had investigated and told developer that city did not have title to land before developer built on the land); *Farrell v. Placer* (1944) 23 Cal.2d 624 (county estopped from asserting statute of limitations where it told plaintiff not to get an attorney and encouraged settlement past expiration of the statute of limitations); *La Societe Francaise v. California Employment Comm'n* (1943) 56 Cal.App.2d 534 (state estopped from alleging past tax violations against corporation when it had

previously classified corporation as exempt and later reversed its decision, thus creating past tax liability); *Phyllis v. Santa Barbara* (1964) 229 Cal.App.2d 45 (city estopped from invoking statute of limitations to avoid making pension payments, where it had previously told employees they were ineligible for pension benefits); *J.H. McKnight Ranch v. Franchise Tax Bd.* (2003) 110 Cal.App.4th 978 (Franchise Tax Board estopped from asserting exhaustion of administrative remedies, when it proposed summary denial of the claim in order to expedite resolution in court).

B. Application of Equitable Estoppel to These Facts Would Create a Negative Precedent for Cities.

Oly Chadmar contends that Goleta should be estopped from denying approval of their final map because they relied on Goleta approving their final map to their detriment. Application of estoppel is not warranted in these circumstances.

First, Goleta's actions in denying Oly Chadmar's final map show no hint of wrongdoing, as Goleta acted under a reasonable interpretation of the law. Generally, under the Subdivision Map Act, a final map conforming to a previously approved tentative map must be approved by the legislative body as a ministerial task, as the body is presumed to have already approved a substantially similar tentative map. Gov't Code § 66471.1; *Youngblood v. Board of Supervisors* (1978) 22 Cal.3d 644. An exception to this general rule, however, exists when maps tentatively approved by a county come before a newly incorporated city for final approval. Government Code section 66413.5 provides that although a newly incorporated city, in most instances, "shall approve" a tentative map previously approved by a county, that only applies when "(1) [t]he application for the tentative map or the vesting tentative map is submitted prior to the date that the first signature was affixed to the petition for

incorporation" and "(2) [t]he county approved the tentative map or the vesting tentative map prior to the date of the election on the question of incorporation." Gov't Code § 66413.5(f). If both of these requirements are not met, a newly incorporated city that was not a party to the original decision on the tentative map has discretion to deny approval of the final map.

In the instant case, the record supports Goleta's position that it was not required to approve Oly Chadmar's final map in the circumstances of this case. First, the initial signature for incorporation was obtained on July 4, 1999. Oly Chadmar did not file its application with the County for a vesting tentative map until November 18, 1999, well after the first signature for incorporation was collected. Vol. 19, p. 6003. Second, the election approving the incorporation of the city was held on November 6, 2001 and the County did not approve Oly Chadmar's tentative map until January 15, 2002, again well after the date required. Vol. 19, p. 6004. These dates conclusively established that Oly Chadmar was not entitled to ministerial approval of their final map by Goleta and that Goleta maintained discretion under section 66413.5 to deny approval of Oly Chadmar's final map.

Moreover, not only were Goleta's actions reasonable, but the record does not disclose that Goleta made false representations to Oly Chadmar that invited Oly Chadmar's reliance. In fact, Goleta made several statements that it reserved jurisdiction over the project and might exercise its discretion to deny the project, making any reliance by Oly Chadmar totally unreasonable. Specifically, the March 18, and June 4, 2002, emails from Goleta to the County, which were both forwarded to Oly Chadmar, clearly indicate that Goleta had concerns about the project and was not inclined to give a rubber stamp approval for it. Vol. 14, p. 4351; Vol. 14, p. 4429. To the extent Oly Chadmar relies on the fact that Goleta processed the

application for the final map, such reliance is misplaced. Goleta was required by law to process the application as cities cannot adopt interim ordinances to delay the processing of development applications, which of course negates any estoppel based on these actions. *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1413.

Oly Chadmar was at all times aware that section 66413.5 could affect the outcome of their final map. Goleta had voiced concern as early as November 28, 2001, nearly two months before the County made its final decision on the tentative map. Vol. 19, p. 5992. Goleta made it well known that it was apprehensive about the potential impacts of Oly Chadmar's project. The County itself acknowledged that section 66413.5 might affect the final decision on the map when its own County Counsel stated that the incorporation of Goleta and section 66413.5 could allow Goleta to deny approval of the final map. Vol. 20, p. 6214.

Equitable estoppel cannot be used to obtain something a party is otherwise not entitled to. It is only appropriate to avoid a manifest injustice as required by law. Nor can estoppel be based on the mere expectation or hope that something will happen. Instead, it must be based on fraudulent and misleading statements or actions that induce detrimental reliance. *First Street Plaza Partners v. City of Los Angeles* (1998) 65 Cal.App.4th 650, 670.

In that highly analogous case, First Street Plaza Partners entered negotiations with the City of Los Angeles for a contract to develop a parcel of City owned land. During the negotiations, large sums of money were expended by both sides, $12 million for the developer alone, and the City Council adopted a resolution, concurred with by the Mayor, approving the scope of the project and

authorizing continued negotiations, which prompted "some celebrating among City Council members...and negotiators for the plaintiff." *Id.* at 657. While these negotiations lasted for several years, the City ultimately decided not to proceed with the project. The developer filed suit and sought to estop the City from denying that the parties had agreed to a contract to develop the land. The court refused to apply estoppel to enforce a proposed contract, finding that the City and the Mayor retained discretion to deny approval of the final contract and the developer knew this. The court held that "[e]ven though the parties may at one time [have] been proceeding in an atmosphere of good will and even camaraderie, and may have held high and even reasonable hopes for eventual formation of a final contract," there was no evidence in the record that demonstrated that the contract had been concluded, and since the City and Mayor were vested with discretion to deny the final approval of the contract, estoppel was not appropriate. *Id* at 670. The Court further went on to state that "even if a declaration of estoppel were legally permissible, and even if a court were to conclude that plaintiff was shabbily treated, there is no basis for an estoppel in the record." *Id.* As *First Street Plaza Partners* aptly demonstrates, far more than a mere hope or expectation is required to apply estoppel, and as in *First Street Plaza Partners*, there is no evidence in the record of this case to justify the application of estoppel.

Finally, Oly Chadmar retains an adequate remedy at law for developing their property, as they can still apply to Goleta for a new subdivision map and comply with Goleta's land use laws and regulations. While this may be inconvenient, it certainly will not result in the type of hardship required to apply estoppel as was

present in the aforementioned cases. *Santa Monica Unified Sch. Dist. v. Persh* (1970) 5 Cal.App.3d 945, 953 (while defendant "suffered hardship" by purchasing property to offset taxes on separate property he expected to sell to city, the doctrine of estoppel is not available to him to enforce the sale to the city).

Allowing estoppel in this case would essentially read out the "reasonable reliance" requirement from the estoppel doctrine. It would detract from the ability of newly incorporated cities to assume jurisdiction over land use applications submitted prior to its incorporation, as they would be estopped from taking final action on those applications if, by doing so, they would disappoint the applicant's expectation, reasonable or not.

Equitable estoppel in this case would create a negative precedent that would greatly limit cities and their ability to exercise discretion over land use proposals that affect their citizens. It would also deny cities the rights granted to them by the Legislature and the California Constitution. The decision to apply estoppel in this case must be judged in light of the established view that "land-use decisions are a core function of local government" and "[f]ew other municipal functions have such an important and direct impact on the daily lives of those who live or work in a community." *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1179, *citing Gardner v. Baltimore Mayor & City Council* (4th Cir.1992) 969 F.2d 63, 67-68.

Goleta took action to process Oly Chadmar's final map because it was required to in order to comply with existing law requiring action on land use applications. *Building Industry Legal Defense Foundation, supra,* 72 Cal.App.4th at1413. It is well established that "[n]o government, whether state or local, is bound to

any extent by an officer's acts in excess of his or her authority." *Burchett v. City of Newport Beach*, *supra,* 33 Cal.App.4th at 1479. In *Bruchett,* the court ruled that the city was not estopped from denying a permit when its assistant city planner incorrectly informed a property owner that he could obtain an encroachment permit to retain a non-conforming driveway. *Id.* The court reasoned that any person who deals with a public officer is presumed to have full knowledge of that officer's powers, and is bound at his or her peril to determine the true extent of that officer's powers. *Id.* Similarly, here, Oly Chadmar is presumed to know that staff's actions in processing the application do not and cannot bind the City Council's ultimate decision. Applying estoppel against a city, whose staff merely processed an application, because the applicant unreasonably believed this processing was an assurance of ultimate approval would create a dangerously broad precedent.

Estoppel on these facts is particularly unwarranted since Goleta is a newly incorporated city. In contrast to an established municipality with an established staff fully cognizant of institutional rules and practices, a newly incorporated city is often simply trying to hire and train staff while trying to respond to approvals granted by other public agencies. If an established city cannot be estopped by actions of its more experienced staff, a newly incorporated city certainly should not be estopped by actions of new or interim staff immediately following incorporation.

Goleta was merely taking unremarkable actions that were entirely consistent with a newly incorporated city initiating its own procedures and policies. Many of the factors identified by the trial court in support of its finding that Goleta was equitably estopped from denying approval of the final map are typical actions that any newly incorporated city would take to

process land use applications it inherits from a predecessor agency. For example, as evidence supporting estoppel, the trial court relied on Goleta's adoption of the County's Municipal Code as its own and amendment of the County Code to substitute "city" terms for "county" terms. Vol. 19, p. 6025-27. However, newly incorporated cities must immediately adopt the county's municipal code as their own, as required by Government Code section 57376. Construing such an action as waiving a newly incorporated city's discretion over a final map could serve to estop virtually any newly incorporated city from exerting its recently acquired powers over processing land use applications. Such a result would sharply and unwisely undercut the ability of new cities to protect the welfare of their citizens.

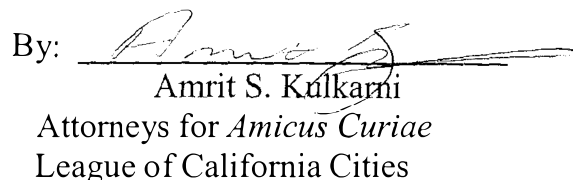
VI. Conclusion

Equitable estoppel is an extreme remedy that should only be applied to avoid manifest injustice. As such, it should be applied in only the most extreme cases of intentional wrongdoing, and not in cases where the party seeking to utilize estoppel had a mere expectation or hope that something would happen as a result of a city's required administrative processing of their application. An overbroad application of estoppel, as exemplified by the facts of this case, would greatly inhibit cities' abilities to govern and protect their citizens. For all of the foregoing reasons, the League respectfully requests that this Court uphold the decision of the Court of Appeal.

Respectfully submitted,

Dated: June 9, 2005

MEYERS, NAVE, RIBACK,
SILVER & WILSON

By: 

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Certificate of Compliance Pursuant to

California Rules of Court Rule 29.1(c)(1)

I hereby certify that, as counted by our word-processing system, this Amicus Curiae Brief contains 4948 words exclusive of the tables, signature block and this Certification.

Executed the 9th day of June, 2005 at Oakland, California.

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League of California Cities

DECLARATION OF SERVICE

I am a citizen of the United States and employed in the County of Alameda; I am over the age of eighteen years and not a party to the within entitled action; my business address is Meyers, Nave, Riback, Silver & Wilson, 555 12th Street, Suite 1500, Oakland, CA.

On June 9, 2005, I served the within:

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
and AMICUS CURIAE BRIEF of
LEAGUE OF CALIFORNIA CITIES

on the parties in this action, by placing a true copy thereof in a sealed envelope(s), each envelope addressed as follows:

Julie Biggs, City Attorney — 1 Copy
City of Goleta and
Geralyn Liosi Skapik
Amy Eileen Hoyt
Burke, Williams & Sorensen
3403 Tenth Street, Ste. 300
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Attorneys for City of Goleta

Superior Court County of Santa Barbara — 1 Copy
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Respondent

Richard Monk — 1 Copy
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Santa Barbara, CA 93101

Patrick E. Breen, Esq. 1 Copy
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Los Angeles, CA 90071-3398

Wendy Lascher, Esq. 1 Copy
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Ventura, CA 93001

Attorneys for the Oly Chadmar Sandpiper General Partnership

James P. Corn, Esq. 1 Copy
Stoel Rives LLP
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Sacramento, CA 95814

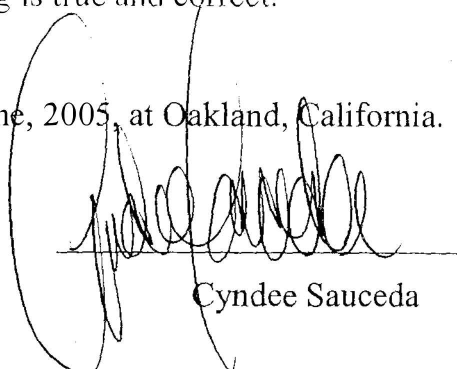
Attorneys for *Amicus Curiae* Consulting Engineers and Land Surveys of California

Office of the Clerk 1 Copy
California Court of Appeal
Second Appellate District
200 East Santa Clara Street
Ventura, CA 93001

(X) (BY FIRST CLASS MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail to be mailed by First Class mail at Oakland, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 9th day of June, 2005, at Oakland, California.



Cyndee Sauceda

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