

California Court of Appeal Unanimously Affirms \$3.5M Attorneys' Fees Award for Kennedy Commission in Huntington Beach Affordable Housing Lawsuit

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Huntington Beach, May 11, 2023 – Today the California Court of Appeal unanimously affirmed the \$3.5 million attorneys' fees award to Kennedy Commission for its advocacy in a years-long legal battle with the City of Huntington Beach in Kennedy Commission v. Huntington Beach, Los Angeles Superior Court, Case No. 30-2015-00801675.

The Kennedy Commission lawsuit arose from the City's adoption of the Beach and Edinger Corridors Specific Plan Amendment ("BECSP Amendment") in 2015, which effectively blocked affordable housing development in the City. In July 2015, the Kennedy Commission filed suit against the City, alleging that the City's actions violated the California Constitution and state fair housing laws. Throughout the lawsuit, Kennedy Commission's goal was for the City to come into compliance with state housing obligations and to increase affordable housing. After Kennedy Commission initially prevailed at the trial court, the Court of Appeal reversed that victory, on the ground that the City was exempt from certain Housing Element Laws because of its status as a charter city.

In direct response to that decision, in 2018, the California Legislature passed Senate Bill 1333, which applied numerous planning laws to charter cities, including the requirement that zoning ordinances be consistent with the general plan. The legislative history of Senate Bill 1333 noted that the Court of Appeal's decision exempting charter cities from Housing Element Law compliance "threaten[ed] to undermine the state's efforts to ensure that affordable housing is available statewide."

On February 3, 2020, the City adopted a revised Housing Element, which the California Department of Housing and Community Development (HCD) later certified as substantially compliant with Housing Element Law. The revised Housing Element responded to the exact issues that had been raised in the Kennedy Commission lawsuit, including by designating six sites on which 502 new units of affordable housing could be built and establishing development standards that promote affordable housing.

Having achieved its primary objectives—bringing the City's Housing Element into substantial compliance with the law and increase affordable housing—Kennedy Commission filed a motion for attorneys' fees. On July 8, 2021, the Honorable Michael L. Stern of the Los Angeles County Superior Court determined

that the Kennedy Commission case was the catalyst that caused the City Council to adopt a revised Housing Element that complied with state law. The trial court stated that “[w]ithout the private enforcement action by Kennedy Commission, the future availability for low-income housing in the City and beyond would have been greatly different.” The trial court concluded that Kennedy Commission’s requested fees were reasonable, given the length of the litigation and “the strenuous opposition by City authorities.” Praising the “exceptional work by dedicated volunteer attorneys,” the Court awarded Kennedy Commission \$3,531,201.10 in attorneys’ fees in recognition of “the novelty and difficulty of the questions involved and the skills displayed in presenting them.”

The Court of Appeal has now issued a unanimous published opinion affirming every aspect of the trial court’s ruling. The Court found the trial court was well within its discretion to issue the \$3.5 million fee award, and recognized that “[t]he litigation against the City was instrumental in the City adopting [a Housing Element], which conferred a significant benefit to residents in Huntington by assuring that development in Huntington included lower-income housing.”

Discussing the decision, Community Legal Aid SoCal’s Directing Attorney of Advocacy & Litigation Sarah Reisman said, “We commend the Court of Appeal’s decision, which holds the City of Huntington Beach accountable to the housing needs of all its residents. This decision is the culmination of eight years of litigation brought to ensure the City complied with its obligations under affordable housing laws.”

Kennedy Commission Executive Director Cesar Covarrubias added, “This decision is a win for families who are struggling to pay their housing costs and underscores the need for each city to do its part to address the statewide affordable housing crisis. It is critical that advocates and city officials work together to ensure that all California residents have a safe and affordable place to live.”

Kennedy Commission was represented on a pro bono basis by attorneys from Community Legal Aid SoCal, Public Law Center, Public Interest Law Project, and Jones Day.

About the Kennedy Commission:

The Kennedy Commission is a community-based non-profit that works with residents and community organizations to increase the production of homes affordable to lower-income households in Orange County. Originally convened as an all-volunteer organization, the Kennedy Commission was formed in 2001 and named in honor of Ralph Kennedy, a pioneer for the homeless, affordable homes and human rights advocacy in Orange County.

The Kennedy Commission develops housing solutions that affirm the dignity of families with very low and extremely low-incomes and unites communities across Orange County to development of homes affordable to all.