

ERVIN COHEN & JESSUP SECURES UNANIMOUS DECISION DEFINING PERMIT

04.05.2019

A 28-unit artist work/live project in Laguna Beach, California has been revived thanks to Ervin Cohen & Jessup attorney Jeffrey Harlan. On April 3, 2019, the City of Laguna Beach Planning Commission voted unanimously in favor of ECJ's client, sculptor Louis Longi and Dornin Investment Group, LLC, that a city permit does not go into effect until the date a coastal development permit is finally approved. This is in contrast to the opposition's claim that the city permits had expired because the entitlement clock starts on the date a city permit is approved.

The municipal code dictates that construction must begin within two years of a city permit's effective date. A two-year extension can be granted by the Planning Commission, with an additional one-year extension possible after that, for a maximum of five years total. However, a coastal development permit can take years to be approved, particularly if the city's permit approval is appealed to the California Coastal Commission. This is evident with Mr. Longi's project, which consists of 28 housing units (including 9 deed-restricted affordable units), six art studios and gallery space, and was originally approved by the Laguna Beach City Council in 2014, five years ago. Project opponents appealed the City's decision to the Commission, which ultimately denied the appeal three years later after ensuing litigation forced a second Commission hearing in August 2017.

Mr. Harlan successfully argued that since a developer can't begin building without all of the necessary permits, the city and coastal development permits should have the same effective date. This is based on a Zoning Code provision that marks the effective date of a coastal development permit from the time when all appeals, including those to the Coastal Commission, have been exhausted. Therefore, Mr. Longi's permits only became effective on August 9, 2017, the date the California Coastal Commission finally denied the opponents' appeal and unanimously approved the coastal development permit.

"It's disingenuous for the project opponents to argue that the permits have expired, because the only reason for delay of this project is the project opponents' appeals and subsequent litigation," Harlan said. "If anything, this

PROFESSIONALS

Jeffrey Harlan

PRACTICE AREAS

Land Use and Environmental
Real Estate

only highlights the inequity that results when a project opponent tries to run out the clock on a permit.” (“Controversial artist work/live project inches forward in Laguna Beach after Planning Commission keeps city permit alive,” *Los Angeles Times*, April 4, 2019). The Planning Commission ultimately agreed.