Case Nos. H052675, H052946

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

CALIFORNIA RENTERS LEGAL ADVOCACY & EDUCATION FUND, et al.,

Plaintiffs and Appellants,

v.

COUNTY OF SANTA CLARA, et al.,

Defendants and Respondents.

[PROPOSED] AMICUS CURIAE BRIEF OF THE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF DEFENDANTS AND RESPONDENTS COUNTY OF SANTA CLARA

Appeal from the Superior Court of California, County of Santa Clara
Honorable Mary E. Arand, Judge
(Case No. 22CV403175)

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I. INTRODUCTION

The Housing Accountability Act ("HAA") was enacted in 1982 and has been amended multiple times to address the State's serious housing shortage. The HAA's purpose is to confront, effectively and aggressively, the housing crisis that is "hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives." (Gov. Code, § 65589.5.)

At issue in this case is Government Code section 66300, subdivision (b)(1)(A) (hereinafter referred to as "SB 330"). In furtherance of the goal of addressing housing needs, SB 330 restricts local governments from taking a variety of legislative actions that reduce the intensity of land uses or decrease residential development capacity. (*Ibid.*)

Acting in its legislative capacity, Respondent Santa Clara County exercised its constitutional police power to address a local neighborhood-character concern by modestly increasing the front-setback requirement. The County reasonably determined that this change did not reduce development capacity or land use intensity. The question before this Court is whether SB 330 preempts this exercise of local police power.

SB 330's plain language preempts only zoning actions that actually reduce residential development capacity or land use intensity. This interpretation aligns with decades of precedent requiring clear and specific evidence of intent to preempt local zoning authority, as well as the broad deference owed to local legislative judgments. Appellants' contrary interpretation conflicts with these well-established principles, whereas the trial court properly harmonizes the Legislature's goals in the Housing

Accountability Act with the constitutional authority of cities and counties.

Moreover, Appellants' expansive reading – that SB 330 prohibits local governments from using any zoning tools listed in the statute even when they *do not* reduce development capacity – would lead to impractical and harmful consequences. For these reasons, the trial court's order denying Appellants' writ of mandate should be confirmed.

II. ARGUMENT

A. Local land use is a core constitutional police power and any legislative intrusion must be clear and specific.

One of the most enduring principles of California law is that the power to adopt zoning laws and otherwise regulate land use resides with local governments. The Legislature has consistently preserved local zoning authority power to the greatest extent possible. As such, "[i]f the Legislature decides to preempt the decision making power of local governments in the field [of land use], it should specifically say so." (*Bownds v. City of Glendale* (1980) 113 Cal.App.3d 875, 886.).

Under Article XI, section 7 of the California Constitution, cities and counties possess inherent police powers. The power of a city or county to control its own land use decisions derives from this inherent police power, not from the delegation of authority by the state. Thus, local governments have been constitutionally endowed with wide-ranging discretion to formulate basic land use policy. (*Building Industry Assn. of Central California v. County of Stanislaus* (2010) 190 Cal.App.4th 582, 589.) These powers are "as broad as the police power exercisable by the Legislature itself,"

subject only to state law. (*Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129, 140.) These powers include wide discretion to regulate land use to protect public health, safety and welfare, or as one court framed it, to promote values that "are spiritual as well as physical, aesthetic as well as monetary." (*Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848, 861, *rev'd on other grounds, Metromedia, Inc. v. San Diego* (1981) 453 U.S. 490.) A local governmental entity's police power "is an indispensable prerogative of sovereignty and one that is not to be lightly limited." (*Miller v. Board of Public Works of City of Los Angeles* (1925) 195 Cal. 477, 484; *San Diego County Veterinary Medical Ass'n v. County of San Diego* (2004) 116 Cal.App.4th 1129, 1135.)

As the California Supreme Court noted in *Cadid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885 "[u]nder the police power granted by the Constitution, counties and cities have plenary authority to govern, subject only to the limitation that they exercise this power within their territorial limits and subordinate to state law. (Cal. Const., art. XI, § 7.) Apart from this limitation, the 'police power . . . is as broad as exercisable by the Legislature itself.' (*Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129, 140.)" This police power, of course, extends to local land use regulations. (See *Berman v. Parker* (1954) 348 U.S. 26, 32-33; *Big Creek Lumber v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1151.)

Indeed, the California Supreme Court has long recognized local authority to adopt zoning legislation. (*IT Corp. v. Solano County Bd of Supervisors* (1991) 1 Cal.4th 81, 89 [holding that

"[t]he power of cities and counties to zone land use in accordance with local conditions is well entrenched."].) By the time the United States Supreme Court gave its approval to local zoning measures nearly 100 years ago in *Euclid v. Ambler Realty Co.* (1926) 272 U.S. 365, "comprehensive zoning . . . had taken its place as a constitutionally recognized part of our legal and political system." (*Consolidated Rock Products Co. v. City of Los Angeles* (1962) 57 Cal.2d 515, 521 [describing rapid and near-universal acceptance of local zoning by early 1920's].)

The zoning power is critical to the ability of local governments to plan for safe and livable communities. Courts have long recognized that zoning restrictions are legal precisely because they are closely linked to the promotion of a community's health, safety and welfare. When the local authority allegedly preempted is one that is at the core of local governments' traditional powers, a further rule of statutory interpretation comes into play. The Legislature's intent must be evaluated against the backdrop of the existing landscape of settled legal principles, which the Legislature is presumed to be aware of and to intend not to disturb, unless there is a clear showing to the contrary. "[I]t should not be presumed that the legislative body intends to overthrow long-established principles of law unless such intention is made clearly to appear either by express declaration or by necessary implication." (*People v. Davenport* (1985) 41 Cal.3d 247, 266; *In re Michael G.* (1988) 44 Cal.3d 283, 294; *Reidy v. City and County of San Francisco* (2004) 123 Cal.App.4th 580, 591.)

Unless the legislative intent to preempt is clear and specific, a

state statute must be construed to accommodate and preserve settled rules of law. Consistent with this principle, "when local government regulates in an area over which it traditionally has exercised control, such as the location of particular land uses, California courts will presume, absent a clear indication of preemptive intent from the Legislature, that such regulation is not preempted by state statute."' (*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc*. (2013) 56 Cal.4th 729, 742–743

The question before this court, therefore, is whether – considering the long history of recognizing local government control over local land use authority – SB 330 is clearly intended to preempt *all* the zoning restrictions listed therein, or the preemption is limited to only those zoning restrictions that reduce the intensity of land use. Given the constitutional police powers at stake and the presumption against preemption of such powers, the trial court correctly concluded that SB 330 only preempts changes in zoning that reduce the intensity of land use. Here, SB 330's text specifically prohibits local governments from enacting zoning changes that *reduce* land-use intensity or residential development capacity. Nothing in the statute indicates an intent to preempt all setback regulations, particularly when those regulations do not reduce development capacity. If the Legislature intended such sweeping preemption, it would have said so clearly.

The Legislature should not be presumed to have intended to alter long-established principles of law by taking away such a settled local power except on a clear showing of legislative intent. (*People v. Davenport, supra*, 41 Cal.3d at p. 266; *Bownds*, supra, 113

Cal.App.3d at p. 886 [decision making power in matters of land use continues to reside with local governments, and "[i]f the Legislature desires to preempt the decision making power of local governments in the field, it should specifically say so"].) Absent any clear and manifest indication of legislative intent to preempt such a traditional local function, therefore, this Court should conclude that SB 330 does not preempt local zoning power beyond the situation specifically identified in the applicable section: when the zoning results in a less intensive use.

B. Courts afford broad deference to legislative land use decisions.

For over half a century, courts have emphasized deference to local legislative bodies acting in their legislative capacities in adopting zoning ordinances. The United States Supreme Court noted that: "It is not our function to appraise the wisdom of its decision . . . . In either event the City's interest in attempting to preserve the quality of urban life is one that must be accorded high respect." (*Young v. American Mini Theatres, Inc.* (1976) 427 U.S. 50, 71.) California courts follow the same principle, upholding the rule that the judiciary has a limited role in considering the validity of local regulations, specifically involving zoning: "The wisdom of the prohibitions and restrictions is a matter for legislative determination, and even though a court may not agree with that determination, it will not substitute its judgment for that of the zoning authorities if there is any reasonable justification for their action." (*Carty v. City of Ojai* (1978) 77 Cal.App.3d 329, 333 fn. 1.)

Challenges to the legislative judgments of local governments,

and courts' reviews of such challenges, implicate important constitutional separation of powers principles. The California Supreme Court has consistently accorded the broadest possible deference to the judgments of municipalities as a coordinate branch in government. "[W]e must keep in mind the fact that the courts are examining the act of a coordinate branch of the government – the legislative – in a field in which it has paramount authority, and not reviewing the decision of a lower tribunal or of a fact-finding body. As applied to the case at hand, the function of this court is to determine whether the record shows a reasonable basis for the action of the zoning authorities, and, if the reasonableness of the ordinance is fairly debatable, the legislative determination will not be disturbed." (*Lockard v. City of Los Angeles* (1949) 33 Cal.2d 453, 461-462.) When a City Council or Board of Supervisors enacts a zoning ordinance, it acts in a legislative capacity, and every intendment is in favor of such ordinances. (*Big Creek*, supra, 38 Cal.4th 1139, 1152, citing *Lockard, supra,* 33 Cal.2d at p. 460*; Orinda Homeowners Committee v. Board of Supervisors* (1970) 11 Cal.App.3d 768, 775.)

Appellants argue that cities and counties are not entitled to deference when determining whether a zoning ordinance reduces land use intensity under SB 330 (Opening Br., pp. 48-51), relying on *Ruegg & Ellsworth v. City of Berkeley* (2021) 63 Cal.App.5th 277, for the proposition that a local government's findings are not entitled to deferential review when the applicable state law limits municipal discretion. (Opening Br., p. 51.)

Respondent Santa Clara County correctly distinguishes the

Ruegg case because it is based on a different statute and involved contradictory evidence. But there is another important reason *Ruegg* does not apply here. In *Ruegg,* the City of Berkeley was not exercising its legislative authority. The statute at issue in the case (Gov. Code, § 65913.4), provides for streamlined, *ministerial* approval of affordable housing projects that meet specified requirements and conditions. In denying the application for failure to meet several statutory requirements, the City was merely applying a state statute to a set of facts. It was not itself exercising its legislative authority.

As such, Appellants read too much into the holding of *Ruegg.* The case does not eliminate deference in all instances in which a state statute limits local discretion. Rather, it finds that deference is not afforded when a municipality is applying a set of facts to state law in the course of *administering* the state law. That is a critical and significant distinction from the present case in which Santa Clara County exercised its *legislative* authority by adopting a local zoning ordinance. As to such legislative judgments, the traditional writ of mandate standard applies, which provides deference to the legislative body. (*Bull Field, LLC v. Merced Irrigation Dist.* (2022) 85 Cal.App.5th 442, 456, quoting *Michael Leslie Productions, Inc. v. City of Los Angeles* (2012) 207 Cal.App.4th 1011, 1026 ["[A] writ of mandate that requires legislative or executive action 'to conform to the law,' but it may not 'substitute its discretion for that of legislative or executive bodies in matters committed to the discretion of those branches.']).

C. Adopting Appellants' position would have harmful statewide consequences for local planning and housing development.

Appellants' expansive view of preemption would lead to significant intrusion from the state Legislature and courts into a wide array of local land use decisions. While focused state preemption of local zoning in California aims to overcome localized barriers to housing production, an overreading of the HAA would bring significant drawbacks: reduced local autonomy, weakened public engagement, administrative burdens, and mismatches with local conditions. These factors can undermine effective local land use planning, complicate affordable housing responses, and limit the success of housing development goals when not paired with local context, resources, and meaningful collaboration.

Preemption reduces the ability of local governments to tailor land use plans to local conditions, priorities, and community goals. Local plans reflect community values. General plans and zoning ordinances are structured around local infrastructure capacity, environmental priorities, historic preservation, and community character. When the state overrides these, municipalities are constrained from shaping land use to reflect what residents want or need. Assuming broad preemption also risks planning processes becoming reactive, not proactive. Instead of engaging in long-term planning through public input and thoughtful analysis, jurisdictions must react to state mandates, which can disrupt scheduled updates to zoning codes and general plans and responsiveness to community needs. Weakened local control over zoning also reduces local ability to integrate housing goals with other local priorities such as transportation, open space protection, and economic development.

Appellants' view that SB 330 broadly preempts all local zoning tools

described therein rather than more narrowly focusing on zoning decisions that reduce the intensity of land use also creates staffing and technical burdens for cities and counties. It is difficult to understand how to interpret and implement the kind of implied preemption that Appellants advocate for here, where the language of the statute is focused on its face on zoning that reduces residential development capacity but the statute is applied broadly, even where there is no reduction in residential development capacity. It creates inconsistent application and creates confusion about how standards interact with local regulations, increasing appeals and legal challenges that divert time and resources from planning. Local planning departments become overextended and less effective at facilitating high-quality land use decisions across all sectors, not just housing.

Further, an overly broad application of preemption can dilute community voices in land use decisions. When zoning decisions are made by the State Legislature, even down to the detail of prohibiting setbacks in a small housing development that do reduce residential development capacity, residents and local elected officials have less say in shaping outcomes that directly affect their neighborhoods. Communities feel disenfranchised when critical land use decisions—including density and design standards that do not reduce the intensity of land use – are mandated without robust local engagement.

The broad implied preemption advocated by Appellants also means uniform rules across diverse jurisdictions, from dense urban cores to rural towns, creating a mismatch that can reduce quality of life in all communities. Reading a targeted preemption that restricts reduction in residential capacity so broad as to prohibit all setbacks can lead to development patterns that are unsustainable or undesirable locally. Policies

that ignore local context can exacerbate existing local concerns, and when they are applied without regard to whether they have any negative impact on development capacity, they also fail to produce the desired housing outcomes that the Legislature is seeking.

III. CONCLUSION

For all these reasons, Amici Curiae urge this Court to affirm the decision below denying Appellants' petition for a writ of mandate.

Dated: January 26, 2026

Respectfully submitted,

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CERTIFICATION OF COMPLIANCE WITH CALIFORNIA RULES OF COURT, RULE 8.204(c)(1)

I hereby certify that this brief has been prepared using proportionately double-spaced 13-point Times New Roman typeface. According to the word count feature in my Microsoft Word software, this brief contains 2,959 words.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 26th day of January, 2026 in Sacramento, California.

Respectfully submitted,

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