

Court of Appeal Clarifies State Government Exemption from Local Zoning

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A state government entity is exempt from local building and zoning laws when its development project primarily serves a governmental purpose, even if it includes proprietary functions.

A governmental function includes services that benefit the public. On the other hand, a proprietary function is a private activity that is not for the general public's benefit. Sometimes, as in the case of a new hospital approved on a U.C. San Francisco campus, state government development projects involve a mix of governmental and proprietary functions.

In *The Regents of the University of California v. Superior Court*, a group of property owners challenged the U.C. Regents' proposed development of a university hospital because it would exceed local building height and bulk restrictions. State entities have sovereign immunity from local regulations when they engage in a governmental activity, such as providing medical education. The property owners argued that despite advancing the state entity's academic mission, the hospital project served a proprietary function by expanding the Regents' role as a healthcare provider, which should make the project subject to local zoning and building regulations. The court of appeal disagreed and determined that the combination of proprietary activities with the governmental function of the hospital did not undermine the university's immunity from local land use laws.

Even if the hospital's activities, similar to a private entity, would generate revenue, the hospital primarily served the university's broad academic mission. The court clarified that because the governmental function was not a trivial or peripheral part of the project, the Regents were afforded immunity even if the project included non-educational activities that generated revenue.

For more information regarding the applicability of local zoning and building laws to other government entities, please consult with your RWG attorney. This E-Alert was written by Emily Curley, an RWG Summer Associate and rising 3L student at Loyola Law School.