

The Impact of One City's Designated Truck Routes on a Neighboring City's Streets Is Not a Public Nuisance

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In a "tale of two cities," it is not a public nuisance for one city to alter its heavy truck routes in a way that funnels extra truck traffic into a neighboring city.

In *City of Norwalk v. City of Cerritos*, the court of appeal held that a statutory immunity applied to an ordinance that altered truck routes within the City of Cerritos because the ordinance was adopted under the express authority of the California Vehicle Code. The challenged ordinance effectively eliminated one designated truck route within Cerritos. The net effect of the ordinance, according to the neighboring City of Norwalk, was to channel a substantial increase in traffic through Norwalk's streets. Norwalk claimed that the resulting adverse effects of the truck traffic on its residents and businesses constituted a public nuisance.

Civil Code Section 3482 states "[n]othing which is done or maintained under the express authority of a statute can be deemed a nuisance." In this case, two provisions of the Vehicle Code authorize cities to regulate certain aspects of truck traffic within their jurisdictions. Section 35701 authorizes a city to "prohibit the use of a street [within its exclusive jurisdiction] by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit." And, Section 21101(c) broadly authorizes a city to prohibit certain types of vehicles from using designated highways within its jurisdiction. Both statutes authorized Cerritos to adopt an ordinance that limits heavy trucks travelling through the City to certain street.

In describing the result of this statutory scheme, the court found: "The closure of one artery to through traffic necessarily diverts that traffic to a different artery. . . . Life finds a way; so does traffic." According to the court, the immunity conferred by Civil Code Section 3482 extends to the resulting effects of a duly authorized truck route ordinance.

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It should be noted that the California Environmental Quality Act (CEQA) was not an issue in the case. A city intending to establish or modify truck routes should consider whether environmental review of its actions, including impacts on neighboring communities, is required under CEQA.

If you have any questions about how this case may affect your city, please contact **Nicholas R. Ghirelli** or your RWG attorney.