

# Recent Court Rulings Related to Proposition 218 Assessment Analyses

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There have been six recent court rulings that are important to consider in the formation of new or increased benefit assessments. These rulings are summarized below.

## **1. Silicon Valley Taxpayers Association vs. Santa Clara County Open Space Authority** *Supreme Court ruling dated July 14, 2008*

One of the primary findings of this case was that the improvements/services to be funded must be identified to a level sufficient to establish whether or not a parcel will receive a special benefit from the improvement.

- The Engineer's Report did not attempt to measure the benefits that accrued to particular parcels.
- General benefits are not restricted to benefits conferred only on persons and property outside the assessment district, but can include benefits both conferred on real property in the district or the public at large. The Engineer's Report assumed that people and property within the assessment district will receive no general benefit, only special benefit. The Court stated, "Under these circumstances, if everything is special, then nothing is special."
- The Engineer's Report's proportionality analysis failed because the special assessment was based on the agency's projected annual budget rather than a calculation or estimation of the cost of a particular public improvement that will be financed. The Court stated, "An assessment that works backward by starting with an amount taxpayers are likely to pay, and then determines an annual spending budget based thereon, does not comply with the law governing assessments, either before or after Proposition 218."
- The Engineer's Report contained no detailed analysis on how specific properties would benefit from their proximity to the permanent public improvement.

## **2. Robert Dahms vs. Downtown Pomona Property** *Appellate Court ruling dated May 12, 2009*

The Court ruled that parcels can receive a special benefit from improvements funded by assessments if the services funded by the assessment are over and above those already provided by the City, so long as the assessment does not exceed the reasonable cost of the proportional special benefit conferred.

- If assessments imposed on some parcels are less than the reasonable cost of the proportional special benefit conferred on those parcels, then the discounted assessments do not violate Proposition

218 so long as those discounts do not cause the assessments imposed on the remaining parcels to increase above the proportional special benefit conferred on those parcels. Therefore, specific land uses or parcels can receive reduced assessments, as long as the reduction is not financed by the assessments.

- The use of multiple property characteristics to determine the proportional special benefit is appropriate. Because not all parcels in the district are identical in shape and other characteristics, some will receive more special benefit than others. The district used a combination of front footage, building size and lot area to determine the proportional special benefit.
- The 45-day period between the mailing of the notice of public hearing and the public hearing is calculated by excluding the day of the mailing and including the day of the hearing.

### **3. Town of Tiburon vs. Jimmie D. Bonander**

#### ***Appellate Court ruling dated December 31, 2009***

In its review of this case, the Court found that assessments done on the basis of differential costs to establish benefit zones violated the requirement that the assessments be determined in proportion to the special benefits received.

- The assessment failed to meet the proportionality requirements of Proposition 218. The assessment was based largely on cost considerations rather than proportional special benefits.
- An assessment represents the entirety of the cost of an improvement, less any amount attributable to general benefits, allocated to individual properties in proportion to the relative special benefit conferred on the property.
- Proposition 218 specifies that the “proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement...” Thus Proposition 218 contemplates that proportionate special benefit is a function of the total cost of a project, not costs determined on a property-by-property basis or a neighborhood-by-neighborhood basis.
- Zones cannot be based on cost; they must be based on special benefit.

### **4. Steven Beutz vs. County of Riverside**

#### ***Appellate Court ruling dated May 26, 2010***

This case reaffirmed the requirement that assessments must be based upon special benefit and, therefore, the general benefit must be identified and quantified in order to establish the level of special benefit that exists.

- The Court agreed that the County was required to determine the amount of any assessable special benefits by analyzing the general and special benefits of the entire Park Master Plan.
- Missing from the Engineer’s Report was an analysis of the quantity or extent to which the general public may be expected to use or benefit from parks in relation to the quantity or extent to which residential properties that were assessed may use or benefit from parks.

- It was unclear in the Engineer's Report that occupants will use or benefit from parks in a different manner or more intensely than persons from other communities who were not assessed.
- The Engineer's Report did not address whether residents who live in close proximity to a park may be reasonably expected to use that park just as often, over time, as residents who live several miles away.

## 5. Concerned Citizens vs. West Point Fire Protection District

### *Appellate Court ruling dated August 5, 2011*

This case calls into question the ability of local governments to impose assessments to fund services or facilities for fire protection, park maintenance or other services. In order to levy assessments for these purposes, a local government must be able to clearly demonstrate that the services provide a special benefit to property and separate the general benefits from the special benefits. This case is under review by the California Supreme Court with a ruling anticipated in late 2012 or early 2013.

## 6. Golden Hill Neighborhood Association, Inc. vs. City of San Diego

### *Appellate Court ruling dated September 22, 2011*

This case clarified the need for a strong administrative record for the formation of an assessment district. The weighting of the assessment ballots was not sufficiently explained in the City's formation documents or the Engineer's Report; therefore, the assessment balloting was deemed invalid. In addition, the failure to separate and quantify general and special benefits rendered the assessment and formation of the district constitutionally infirm.

## Court Case References

- Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority in the Supreme Court of California, Case No. S136468, filed 7/14/2008
- Robert Dahms v. Downtown Pomona Property and Business Improvement District in the Court of Appeal, Second Appellate District, Division One, Case No. B183545, filed 5/12/2009
- Town of Tiburon v. Jimmie D. Bonander in the Court of Appeal, First Appellate District, Division One, Case No. A119918, filed 12/31/2009
- Steven Beutz v. County of Riverside in the Court of Appeal, Fourth Appellate District, Division Two, Case No. E046318, filed 5/26/2010
- Concerned Citizens For Responsible Government v. West Point Fire Protection District in the Court of Appeal, Third Appellate District, Case No. C061110, filed 6/29/2011
- Golden Hill Neighborhood Assn., Inc. v. City of San Diego, Fourth Appellate District, Division One, Case No. D057004, filed 9/22/2011

## About the Author



Building rapport with clients is one of Alison’s specialties. She has worked at Harris for most of her 20 years in the industry, so it’s no surprise that Alison has developed long-term relationships that have benefited communities across California.

As a Vice President in the municipal funding and special district finance practices, Alison is an expert in the intricacies of AB1600 requirements and has been an integral player in guiding new developments through the specific plan, EIR, and finance plan process. She’s also skilled at acquisition audits—ensuring that public agencies understand the legal aspects of reimbursing developers for constructing public infrastructure. This understanding is essential when precious public funds are involved.

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