

## High Standard for Invoking Equitable Estoppel Against the Government Reaffirmed

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[Schafer v. City of Los Angeles](#); Triangle Center, LLC, Real Party in Interest (6/17/2015, 3d Civil No. E059133)

The California Court of Appeal, Second District, recently re-affirmed the heightened standard for invoking equitable estoppel against the government. In *Schafer v. City of Los Angeles*, the court rejected a claim that the City was estopped from requiring a property owner to abate a long-standing parking lot use in violation of the City's zoning code.

The property owner, Triangle Center, LLC, had been using part of its property as a parking lot since 1957. Although the zoning laws in 1957 allowed for use of the lot for a dwelling or for parking, the City changed the zoning in 1988 to purely residential use. Despite that change, the Department of Building and Safety, in its communications with Triangle Center, continued to refer to the lot as approved for parking.

In 2000, the City granted Triangle Center a permit to re-stripe its parking lot because a portion of the property was in Culver City and Triangle Center had a 1957 covenant with Culver City to use the Los Angeles portion of the property as a parking lot. Subsequently, in 2009 an architect challenged the existence of the parking lot before the Department of Building and Safety without a certificate of occupancy due to the lack of a certificate of occupancy. However, the Department dismissed the complaint, classifying Triangle Center's lot as a legal nonconforming use.

Nevertheless, in 2010 petitioner Carl Schafer again challenged the City's granting of the 2000 re-striping permit on the grounds that (a) Triangle Center had never obtained a certificate of occupancy; and (b) the parking lot was in violation of the City's zoning laws. Once again, the City acting on Schafer's appeal to the City Planning Commission upheld the granting of the 2000 re-striping permit on the grounds that the City was estopped from setting aside the permit.

### Court's Findings

The court ultimately vacated the Planning Commission's decision. In doing so, the court found that the Commission's reliance on equitable estoppel was improper in light of the policy concerns weighing against applying estoppel here.

While the court acknowledged the role of fairness in estoppel, it also emphasized that an estoppel could not normally be raised against the government if contrary to public policy or the public interest. The court cited several cases where economic harm to the property owner was insufficient to raise an estoppel against the government. The court noted *City of Long Beach v. Mansell*, 3 Cal. 3d. 462 (1970) as a unique case where a grave injustice would have resulted if estoppel had not been invoked against the government. There, estoppel was applied because thousands of homeowners had relied on the government's extensive actions as the basis for title to their property.

Using a balancing test of policy concerns versus injustice against Triangle Center, the court concluded that denying an estoppel was proper. To the court, enforcing zoning laws both protected the community as well as maintained the integrity of the zoning process. This more than outweighed what the court perceived as a small injustice caused to Triangle Center, especially since Triangle Center had many opportunities to apply for a certificate of occupancy in the decades leading up to the case.

This case reinforces once again the reluctance of the judiciary to preclude local and state government entities from carrying out their responsibilities, no matter how much or how long a party may have relied on what proves to be unauthorized prior actions of those entities.

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