

June 21, 2010 | Posted By

[GENERAL AND SPECIAL BENEFITS OF SPECIAL ASSESSMENTS MUST BE SEPARATED AND QUANTIFIED](#)

[Beutz v. County of Riverside, Case No. RIC457351 \(4th Dist., Div. 2., May 26, 2010\)](#)

By [David Lanferman](#) & [Michael Cato](#)

In *Beutz v. County of Riverside*, Case No. RIC457351 (4th Dist., Div. 2., May 26, 2010), the California Court of Appeal held that a special assessment imposed by the County of Riverside was invalid because the engineer's report commissioned by the County failed to separate and quantify the general and special benefits to be realized from the public parks that were the subject of the special assessment district. By failing to both separate and quantify the general and special benefits, the agency failed to satisfy its two-part constitutional burden.

Article XIII D imposes certain procedural and substantive limits on an agency's power to impose special assessments. As described by the Court of Appeal, "the substantive limitations are twofold: (1) an assessment can be imposed only for a 'special benefit' conferred on the real property assessed, and (2) the assessment must be in proportion to, and not greater than, the special benefit conferred on the property assessed." *Beutz*, p. 5 (citing Cal. Const. art. XIII D, § 4, subd. (a)). These "special benefit" and "proportionality" requirements are interrelated. "The proportionality requirement ensures that the *aggregate* assessment imposed on *all* parcels is distributed *among* all assessed parcels *in proportion* to the special benefits conferred on *each parcel*." *Beutz*, p. 7.

To satisfy the requirement under Article XIII D that special assessments be limited to the special benefits conferred upon each assessed parcel, an agency forming a special assessment district must both (a) separate the general and special benefits to be realized by a public improvement project and (b) quantify each in relation to each other. Other recent decisions have emphasized the significance of these requirements and have invalidated assessments where the agency's evidence fails to meet these burdens. (E.g., *Silicon Valley Taxpayers' Ass'n v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431; *Bonander v. Town of Tiburon* (2009) 180 Cal.App.4th 1057.)

The special assessment district at issue in *Beutz* was formed in 2006 to pay for the annual landscaping and maintenance costs of four public parks located in the community of Wildomar. The assessment was levied on all single-family residential units in the community, and all of the anticipated annual landscaping and maintenance costs were included in the assessment. In the engineer's report prepared to support the assessment, the engineer stated that landscape maintenance in the parks would confer "direct and special benefits, which will enhance all properties within the Landscape Maintenance District." *Beutz*, p. 14. The report acknowledged that the general public may also benefit from parks, but stated that the benefits to the general public would be offset by certain unreimbursed costs incurred by the County, including debt paid off when the County acquired the parks, and the cost of refurbishing the parks in accordance with the County's park and recreation master plan.

Steven Beutz, an owner of residential property in Wildomar, challenged the assessment on the basis that it violated Article III D. Both parties moved for summary judgment, and the trial court entered judgment in favor of the County, finding that the County had satisfied the special benefit and proportionality requirements. The trial court noted that the costs incurred by the County to acquire and refurbish the parks

and pay for recreational activities were probably sufficient to "substantially outweigh the cost to the people who will actually use the parks". *Beutz*, p. 7.

The Court of Appeal reversed the trial court's judgment, holding that the engineer's report was not sufficient to satisfy the special benefit and proportionality requirements, and that summary judgment should have been entered in favor of Beutz. The Court focused on the fact that the report failed to analyze or present any evidence regarding the "*quantity* or extent to which the general public may reasonably be expected to use or benefit from the parks in relation to the *quantity* or extent to which occupants of Wildomar residential properties, either in the aggregate or individually, may use or benefit from the parks." *Beutz*, p. 24. Had the report included such analysis or evidence, there may have been sufficient basis to conclude that the assessment on each parcel was proportional to and no greater than the special benefits of the landscaping. Instead, the report's deficiencies rendered the assessment unconstitutional.

The appellate court also held that the burden of proof was on the County to demonstrate that its assessment satisfied the special benefit and proportionality requirements. The court held that these were constitutional questions, subject to the appellate court's independent judgment or *de novo* review. The court rejected the County's contention that the legislative determinations of elected County officials as to scope of the project and how much special benefit should be funded by assessments were entitled to deference and substantial evidence review. Instead, the court concluded "no deference is owed to any of the County's determinations in issue" on the appeal.

Authored By:

[David P. Lanferman](#)
(415) 774-2996
DLanferman@sheppardmullin.com

and

[Michael Cato](#)
(858) 720-8939
MCato@sheppardmullin.com