

# Real Estate & Land Use

July 5, 2012

## Prevailing Wage Update: Charter City Public Works Projects Are Not Subject to Prevailing Wage Requirements

Author: [Sean Matsler](#)

**Charter cities are not required to comply with California's prevailing wage law with respect to construction contracts for public buildings, according to a July 2, 2012, California Supreme Court decision. The underlying facts in that case, *State Building and Construction Trades Council of California AFL-CIO v. City of Vista*, relate to an October 2007 resolution adopted by the Vista City Council approving contracts to design and build two fire stations. These contracts did not require certain minimum wage levels to be paid to the contract workers, allegedly in violation of the State's prevailing wage law.**

The Court's decision was rooted in the California Constitution, which provides that the ordinances and regulations of charter cities supersede State law with respect to municipal affairs (Cal. Const., art. XI, § 5), and in case law holding that State law is supreme with respect to matters of statewide concern (*California Fed. Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 17). To determine whether the construction of the fire stations was a "municipal affair" or an issue of "statewide concern," the Court undertook a three-part analysis, asking (1) whether the October 2007 resolution regulated municipal affairs; (2) whether there was an actual conflict between State and local law; and (3) whether the State law addressed a matter of statewide concern.

The Court's findings were unambiguous. First, it concluded that Vista's October 2007 resolution approving the fire station construction contracts involved municipal affairs because the fire stations were facilities operated by the City for its inhabitants and financed with the City's own funds. Second, the Court acknowledged an actual conflict between State and local law because the prevailing wage law did not exempt charter cities and the City's resolution prohibited compliance with that law. Finally, although it considered many creative arguments, the Court identified no statewide concern that might justify the State's regulation of wages that charter cities require to be paid to workers on locally funded public works projects. Because the construction of City-operated fire facilities for the benefit of its inhabitants was found to be a quintessentially municipal affair, the Court therefore held that the contract for the construction of the fire stations was properly governed by the City's own ordinances and not State prevailing wage law.

It is perhaps telling that the Court made its ruling despite the clear intent of the Legislature to have the State prevailing wage law apply to charter cities, noting that such intent is not in and of itself determinative. Given this intent and the strong dissents by two justices, it does not seem far-flung to think that future legislative actions in the arena of prevailing wages and charter cities are a

### Newsletter Editor

Roger A. Grable  
Counsel  
[Email](#)  
714.371.2537

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### Author



**Sean Matsler**  
Associate  
[Email](#)  
714.371.2534

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