

FILED

08/21/2026

SUPERIOR COURT
COUNTY OF IMPERIAL
CLERK OF THE COURT
BY Michelle Urena, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL**

IMPERIAL VALLEY COMP. MFG., LLC,

Petitioner,

vs.

COUNTY OF IMPERIAL, ET. AL.,

Respondents.

Case No.: ECU004800

**TENTATIVE DECISION (CRC
3.1590(h))**

This matter came on regularly for hearing on July 28, 2026, in Dept. 5 of this court, the Hon. Jeffrey B. Jones, Judge, presiding. Sebastian Rucci appeared for Petitioner Imperial Valley Computer Manufacturing, LLC. Nathan George appeared for Respondents County of Imperial and Imperial County Board of Supervisors.

At the hearing, the Court noted that Petitioner had filed additional papers despite previously waiving supplemental replies. The parties agreed to proceed. Counsel presented argument, and the Court took the matter under submission. The Court has considered the pleadings and supplemental materials properly before it, together with the arguments presented at the hearing.

The Court now issues its tentative decision pursuant to CA Rule of Court 3.1590.

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ECU004800 - TENTATIVE DECISION (CRC 3.1590(h)) - 1

1 **I. REQUEST FOR JUDICIAL NOTICE.**

2 Respondents request judicial notice of Ordinance No. 1616, Ordinance No. 1618, and
3 the Imperial County Board of Supervisors Agenda Fact Sheet concerning the Data Center
4 Advisory Committee is **GRANTED**. The ordinances are legislative enactments, and the
5 remaining material constitutes an official act or record of the County. (Evid. Code, § 452, subds.
6 (b), (c).) Judicial notice is taken of the existence and contents of these documents, but not the
7 truth of any reasonably disputable factual assertions contained in them.

8 **II. ISSUES/RESOLUTION.**

9 **A. Did Ordinance No. 1616 Make the Findings Required by Government Code**
10 **§65858(c)?**

11 **No.**

12 Government Code § 65858(c) provides that a legislative body “shall not adopt or
13 extend” an interim ordinance unless it contains legislative findings that there is a “**current and**
14 **immediate threat**” to public health, safety, or welfare and that approval of the applicable
15 permits or entitlements “**would result in that threat.**”

16 Ordinance No. 1616 states that a current and immediate threat exists if permits or
17 entitlements for Data Center Facilities are issued. Its operative explanation, however, states only
18 that those permits or entitlements “**may result**” in development that conflicts with
19 contemplated amendments to the County’s land use regulations.

20 Subdivision (a) permits interim regulation of uses that **may** conflict with a contemplated
21 zoning proposal. Subdivision (c) imposes an additional requirement before the urgency
22 procedure may be invoked: the required approvals **would result** in the identified threat to public
23 health, safety, or welfare.

24 The Court does not conclude that § 65858(c) requires rote repetition of statutory
25 language. Rather, Ordinance No. 1616, read as a whole, does not make the causal finding the
26 statute requires. Its explanation establishes a possible conflict with regulations still under
27 consideration, not that approval would result in the identified public health, safety, or welfare
28 threat.

1 216 Sutter Bay Associates v. County of Sutter (1997) 58 Cal.App.4th 860 is
2 distinguishable. There, the Board expressly found that additional land use approvals “**would**
3 **result in a threat to public health, safety and welfare.**” (*Id.* at p. 869.)

4 **B. Did Ordinance No. 1616 State Facts That Could Reasonably Constitute a**
5 **Current and Immediate Threat?**

6 **No.**

7 Whether the facts recited in an urgency ordinance may reasonably constitute an urgency
8 is a question of law. (*CA Charter Schools Assn. v. City of Huntington Park* (2019) 35
9 Cal.App.5th 362, 369.) Where the ordinance states facts that may reasonably constitute an
10 urgency, the Court does not determine whether those facts are true. (*216 Sutter Bay*, supra, 58
11 Cal.App.4th at p. 868.)

12 The problem here is not the truth of the County’s findings. It is what they establish.

13 Ordinance No. 1616 states that Data Center Facilities are permitted by right, applications
14 are pending, and the County anticipates additional applications. It further states that the County
15 is “aware of concerns regarding adverse effects” associated with the proximity of Data Center
16 Facilities to residences, schools, and other sensitive uses.

17 But the findings do not identify the nature of the adverse effect or explain how issuance
18 of the pending permits would threaten public health, safety, or welfare. They identify *concerns*
19 and the possibility of conflict with regulations still being studied, but not the current and
20 immediate threat required by §65858(c).

21 *CA Charter Schools* illustrates the distinction. The court held that inquiries and requests
22 concerning a use, coupled with the need to consider new regulations, did not establish a current
23 and immediate threat. (*CA Charter Schools*, supra, 35 Cal.App.5th at pp. 369-372.)

24 *Sutter Bay* involved materially different findings. There, development agreements were
25 about to become effective, and the ordinance explained that they could radically alter the
26 character of the County before the electorate could act and severely restrict the County’s future
27 exercise of its police power. (*Sutter Bay*, supra, 58 Cal.App.4th at p. 868.) Those findings
28 identified the asserted urgency.

Ordinance No. 1616 does not contain comparable facts identifying the threatened harm.

C. Did Ordinance No. 1618 Cure the Defects?

No.

Ordinance No. 1618 materially strengthens the County’s findings.

Unlike Ordinance No. 1616, it states that permits or entitlements “**would result**” in development conflicting with contemplated amendments. It also finds that several by-right applications are pending, that permits would otherwise be issued administratively, and that such development is “otherwise imminent.”

The Court accepts those findings for purposes of this decision. Thus, the defect is **not** that development or permit approval is insufficiently imminent.

The defect is that Ordinance No. 1618 still does not identify the current and immediate threat to public health, safety, or welfare that would result from those imminent approvals.

The ordinance continues to refer generally to “concerns regarding adverse effects” and “potential harms.” It states that the County has limited ability to ensure that by-right Data Center Facilities will be consistent with the objectives of contemplated regulations. But a conflict with regulations the County is considering does not, without more, identify the threat required by § 65858(c).

Had Ordinance No. 1618 stated facts identifying how the imminent approvals would threaten public health, safety, or welfare, the Court would not reweigh those facts or determine their truth. The ordinance does not do so.

Accordingly, Ordinance No. 1618 also fails to satisfy § 65858(c).

D. Must the Court Reach Petitioner's Remaining Challenges?

No.

The failure to comply with § 65858(c) is dispositive. The Court therefore does not reach Petitioner’s remaining arguments concerning § 65858(d), the Permit Streamlining Act, the effect of the ordinances on applications previously deemed complete, or whether the moratorium improperly targets Petitioner’s project.

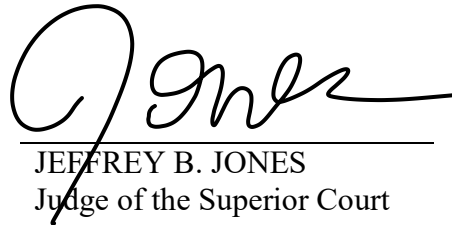
III. DISPOSITION.

1 For the foregoing reasons the Petition for Writ of Mandate and Supplemental Petition
2 are GRANTED, and respondent COUNTY shall be directed to set aside, and cease enforcement
3 of, Ordinance Nos. 1616 and 1618.

4 The Court makes no determination concerning which zoning laws or regulations
5 otherwise govern Petitioner's applications. Petitioner has failed to establish facts supporting its
6 request for a judgment directing respondent to process its applications in a particular manner;
7 Petitioner's request for such a judgment is therefore DENIED.

8 This matter was concluded in less than one judicial day; no statement of decision was
9 requested. Petitioner is to prepare the proposed judgment. California Rule of Court 3.1590(h).

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12 DATED: 08/21/2026


JEFFREY B. JONES
Judge of the Superior Court