

Recent Cases from the Court of Appeal Construing Section 1759

(In Reverse Chronological Order)

1. *California Public Utilities Commission v. Superior Court, Michael Aguirre, Real; Party In Interest (“Aguirre”)*

2 Cal. App. 5th 730; 2016 Cal. App. LEXIS 730 (August 31, 2016)

The Court of Appeal (First District, Division Two) directed the Superior Court in San Francisco to sustain the Commission’s demurrer to a petition for writ of mandate filed by Michael Aguirre. Mr. Aguirre sought a writ directing the Commission to disclose documents related “to the CPUC’s investigation of the San Onofre Nuclear Generating Station shutdown...” and communications between utility and Commission officials prior to the Commission’s resolution of that matter. Mr. Aguirre successfully argued in the Superior Court that (1) the Commission was required to disclose the documents pursuant the California Public Records Act (“PRA”) and (2) his action in Superior Court was not barred by Section 1759. The Court of Appeal took no position with respect to the first point but held that Section 1759 did bar an action in the Superior Court to enforce the PRA with respect to the Commission. The Court directed the Superior Court to sustain the Commission’s demurrer and “prohibited [the Superior Court] from conducting any further proceedings in this matter.” The Court relied in large part on “a closely analogous case regarding another sunshine-type ordinance in the Government Code that also imposes duties on the CPUC...” *Disenhouse v. Peevey* (Para 8, *infra*.) which held that Section 1759 barred the Superior Court from enjoining alleged violations of the Bagley-Keene Open Meeting Act.