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Re. Stop Signs on Butterfield Road

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The City Council of the City of San Anselmo has established stop signs on Butterfield Road at the intersection of said road with Meadowcroft Road, Arroya and Caletta Avenues which requires traffic on Butterfield Road to stop at each of these streets. These streets carry practically no traffic, or so little traffic it is not necessary to maintain stop signs on Butterfield Road to accommodate the traffic from any of these streets. In fact although Arroya and Caletta Avenues intersect Butterfield Road from the East side only, stop signs are nevertheless maintained on the West side of Butterfield Road at or near the intersection of these streets. In a conversation with three of the councilmen of the city of San Anselmo, Knowles, Smith and O'Mera each of these gentlemen advised that the stop signs were established for the purpose of reducing the speed of vehicles on Butterfield Road and not for the purpose of facilitating vehicles entering Butterfield Road from these streets, as each of them admitted that there was no necessity for stop signs at the intersection of these streets with Butterfield Road to permit traffic to enter Butterfield Road from these streets.

Butterfield Road extends from Sir Francis Drake Blvd.
to Sleepy Hollow a distance of one mile and the three streets above mentioned intersect Butterfield Road within this distance.

The maintenance of the stop signs above mentioned on Butterfield Road constitute a serious obstruction to travel over this road as it reduces the 25 mile an hour speed limit allowed by the state law for motor vehicles in residential districts to approximately 10 miles an hour by forcing motor vehicles to stop and start at each of these streets.

Since Butterfield Road is the only thoroughfare by which people living in Sleepy Hollow can go to and from their homes, the maintenance of these stop signs is a serious detriment to the property owners in Sleepy Hollow and tends to reduce the market value of their respective properties.

For the foregoing reasons the property owners in Sleepy Hollow desire to commence an action in the Superior Court of Marin County to restrain the City of San Anselmo from maintaining said stop signs.

I. THE ORDINANCES OR RESOLUTIONS PROVIDING FOR THE ERECTION AND MAINTENANCE OF STOP SIGNS ON BUTTERFIELD ROAD ARE IN CONFLICT WITH THE PROVISIONS OF THE VEHICLE CODE AND ARE THEREFORE INVALID.

A. IN GENERAL, MUNICIPAL ORDINANCES REGULATING THE USE OF CITY STREETS ARE INVALID IF THEY ARE IN CONFLICT WITH STATE STATUTES ON THE SAME SUBJECT.

Decisions supporting this general proposition are

Section 11 of article XI of the California Constitution provides:

"Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws."

(Emphasis added.) (Section 6 of article XI authorizes chartered cities to "make and enforce all laws and regulations in respect to municipal affairs.")

In Atlas Mixed Mortar Co. v. City of Burbank, Cal. 660, ordinances of the defendant city which regulated the use of city streets by commercial vehicles of certain weights were held void. The following portion of the opinion is pertinent here: "It is the contention of the respondents that in so far as the state legislature has attempted by means of said Motor Vehicle Act to prohibit municipalities from the passage of laws regulating the weight of motor vehicles in the course of their use and transport upon and along the streets and highways, the provisions of said act are unconstitutional as in violation of the provisions of article XI, section 11, of the state constitution. The theory of the respondents in making this contention is that the control of streets and highways for the purpose of regulating traffic thereon is a municipal affair. That this contention is without merit has been clear by recent decisions, wherein it has been held that
the regulation and control of travel and traffic along public roads, streets, and highways of the state of California, if it ever was such, has ceased to be a matter of local concern.

(The) rule thus declared would have application to municipalities formed under general laws, of which the of Burbank is one, being a municipality of the sixth class. The effect of these several decisions is to declare that whenever the state of California sees fit to adopt a general scheme for the regulation and control of motor vehicles upon the public highways of the state, the entire control over whatever phases of the subject are covered by state legislation ceases in so far as municipal or local regulation is concerned." (202 Cal. at pp. 662-663.)

Other traffic ordinances of various kinds have been declared invalid for the same reason, that is, on the ground that they were in conflict with specific state statutes or the general statutory scheme with respect to the particular subject matter involved. (Pipoly v. Benson, 20 Cal. 2d 366; In re Murphy, 190 Cal. 287; James v. Myers, 68 Cal. App. 2d 23; Nosbonne v. Brill, 53 Cal. App. 2d 436; People v. Huchstep, 114 Cal. App Supp. 769.)

B. LOCAL AUTHORITIES ARE NOT AUTHORIZED TO FIX MAXIMUM SPEED LIMITS FOR TRAFFIC ON STREETS IN RESIDENTIAL DISTRICTS.

In the leading case of Ex Parte Daniels, 183 Cal. 636,
the petitioner was charged with driving an automobile within the city of Pasadena (a chartered city) in violation of an ordinance fixing the maximum speed limit at less than that prescribed by the Motor Vehicle Act then in effect. The ordinance was held to be void under the following reasoning:

"(T)he regulation of traffic upon the streets of a city is not one of those municipal affairs in which by the constitution chartered cities are given a power superior to that of the state legislature, but such power is subject to the general laws of the state, and ordinances inconsistent therewith are invalid. " (183 Cal. at p. 641.)

Further, it was said (p. 642): "It was clearly the intention of the legislature to declare that the limitation upon speed fixed in the law shall be the only limitation controlling the conduct of the driver of a motor vehicle upon the streets and highways of the state. The intent of the legislature in adopting this general scheme for the control of motor vehicles upon the public highways of the state, for the collection of licenses and the appropriation thereof to the improvement of highways, is not to be measured alone by the language used, but by the whole purpose and scope of the legislative scheme."

Similarly, an ordinance of the city of Merced setting a maximum speed limit was declared void in Matter of Application of Smith, 26 Cal. App. 116, with this comment (pp. 123-124):

"Merced is a city of the sixth class and . . . its
authority goes no further than to 'make and enforce within its limits, all such local, police, sanitary, and other regulations as are not in conflict with general laws. (Const., art. XI, sec. 11) If, therefore, the Merced ordinance may be said to conflict with the Motor Vehicle Act or if this act can reasonably be held to have been intended to supplant all other legislation, state and local, with regard to the subject-matter of the act, clearly the Merced ordinance must stand aside.

In concluding that the ordinance in question did conflict with the general law, the court stated: "The view contended for by respondent would justify every municipality in the state in passing and enforcing ordinances different from the state law and different from each other, thus placing a most vexatious burden upon the users of our streets and highways in compelling them to become familiar with all these statutes. It seems to us that the legislature intended by the Motor Vehicle Act to avoid this possible confusion in the law governing the speed of motor vehicles." (26 Cal. App. at p. 127.)

In Humphrey v. U.S. Macaroni Co., 49 Cal. App. 395, it was held error to admit in evidence certain sections of an ordinance of the city of Los Angeles, one section of which prescribed speed limits for traffic on city streets. Citing the Daniels case, the court said p. 398): "We concede that the Motor Vehicle Act on the subject prevails over the ordinance and that the provisions of the ordinance are invalid."
Citing authorities from several states, the following comment is made in 21 A.L.R. 1187: "(A)s a general rule, where an ordinance regulating the speed of motor vehicles within a municipality is in conflict with a statute on the same subject, the ordinance is invalid." (Subsequent cases are collected in 64 A.L.R. 994, and 147 A.L.R. 529)

The present section 511 of the Vehicle Code fixes the prima facie speed limits under various conditions. Section 511.3 provides that local authorities may alter prima facie speed limits in two cases: (1) Under specified circumstances, a limit of 25 miles per hour may be increased to 35 or 45 miles per hour; (2) A 55 mile an hour limit may be decreased to 45 or 35 miles per hour under certain conditions. The prima facie speed limit in residential districts is 25 miles per hour (Veh. Code, sec. 511 (b)(1)) and there is no authorization in the Vehicle Code for ordinances lowering such a limit. Having given local authorities power to alter the limits fixed by section 511 of two specific instances, the power to alter the established limits in other respects by municipal ordinance is clearly excluded. (In re Murphy, 190 Cal. 286, 289.) This is also the import of section 458, which reads:

"The provisions of this division are applicable and uniform throughout the State and in all counties and municipalities therein and no local authority shall enact or enforce any ordinance on the matters covered by this division unless expressly authorized herein." (Emphasis added.)
It may be conceded that local authorities, "within the reasonable exercise of the police power," may adopt regulations designating intersections on roads or streets other than state highways as stop intersections. (Veh. Code, secs. 459(g), 465 (b).) But that does not mean that the municipality may, under the guise of designating stop intersections, regulate the speed of traffic other than as prescribed in the Vehicle Code or reduce the speed limit for vehicles in a residence district. As stated in Pipoly v. Benson, 20 Cal. 2d 366, at 371: "Regardless of whether there is any actual grammatical conflict between an ordinance and a statute, the ordinance is invalid if it attempts to impose additional requirements in a field which is fully occupied by the statute." This principle has been stated as follows:

"Moreover, it is held that penal ordinances, although not actually conflicting with the general laws, must be in harmony therewith in order to be valid." (18 Cal. Jur. 941.) (See, also, Ex Parte Kearny, 55 Cal. 212, 225, quoted in In re Simmons, 71 Cal. App. 522, at 528-529.)

The legitimate purpose of stop intersections is to facilitate travel (Lindenbaum v. Barbour, 213 Cal. 277, 284) not to impede it, and an ordinance, the sole purpose and effect of which is to slow down traffic, is arbitrary, unreasonable and an invalid attempt to lower the speed limits fixed by section 511 of the Vehicle Code. Where the ordinance is unreasonable,
arbitrary, or discriminatory, the purpose for which it was
adopted is material and "the courts may consider and give
weight to such purpose in considering the validity of the
ordinance." (Dobbins v. Los Angeles, 195 U.S. 223, at 240.)
The matter of what constitutes a reasonable exercise of the
police power was considered in Pacific Railways Advertising
v. City of Oakland, 98 Cal. App. 165, where it was
said (pp. 167-168):
"In entering upon the inquiry as to the validity
of the ordinance we are, of course, mindful of the rule,
stressed by appellants, that every intendment and presumption
is in favor of its validity. But we have in mind, also, the
settled principle that if a statute or ordinance 'purporting
to have been enacted to protect the public health, the public
morals, or the public safety has no real or substantial
relation to those objects' it is the duty of the courts to so
adjudge. (Citations) And in pursuing this inquiry the courts
are not limited to a consideration of the face of the ordinance
alone. It is settled law that a plaintiff may show by extrinsic
evidence that an ordinance, by reason of particular facts and
circumstances, is unreasonable, oppressive and void as to him
(Emphasis added.) (See, also, Pacific Palisades Assn., v. City
of Huntington Beach, 196 Cal. 211, 216.)

ENFORCEMENT OF THE INVALID ORDINANCES OR RESOLUTIONS MAY BE
ENJOINED.

As stated in Brock v. Superior Court, 12 Cal. 2d 605,
609-610, citing cases, "it has uniformly been held that one specially interested may enjoin the attempted execution of an unconstitutional statute." In conformity with this general rule, one specially affected by an invalid traffic ordinance may enjoin its enforcement. (Atlas Mixed Mortar Co v. City of Burbank, 202 Cal. 660.)