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OPINION	:	No. 81-305
of	:	JUNE 22, 1982
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THE HONORABLE MIKE ROOS, MEMBER OF THE ASSEMBLY, requests an opinion on the following question:

Must the City of San Mateo, a charter city, comply with the provisions of Government Code section 50490, et seq., requiring the approval of the owners of 51 percent of the real property constituting an assessment district, if the city wishes to lease the airspace over a city-owned parking lot that was acquired with assessment district funds?

CONCLUSION

The City of San Mateo, a charter city, is not required to comply with the provisions of Government Code section 50490, et seq., since its charter and its ordinances adopted pursuant thereto establish a complete legislative scheme with respect to street improvement and off-street parking, which matters are municipal affairs that are not subject to general law.

ANALYSIS

The City of San Mateo (hereinafter "City") is a charter city (charter ratified by the Legislature, Stats. 1971, Resolution, ch. 10). The charter grants to the City all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants[1] charter, art. I, § 1.03), which powers are vested in the city council (charter, art. II, § 2.05). The charter authorizes the city council to provide by ordinance "not inconsistent with the Charter" for the "organization, conduct and operation of the several offices and departments of the city. . . ." (Charter, art. IV, § 4.02.) The charter further provides in article VIII, section 8.06, that:

"Section 8.06. *Applicability of General Laws*.

"All general laws of the state applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances hereafter enacted or now in effect and not inconsistent herewith, shall be applicable to the city. *The council may adopt and enforce ordinances which*, *in relation to municipal affairs*, *shall control as against the general laws of the state*." (Emphasis added.)

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[1] Charter section 1.03 provides as follows:

"Section 1.03. *Powers*.

"Said city, by and through its council and other officials, shall have, and may exercise, all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants which are not prohibited by the constitution and which it would be competent for this Charter to set forth particularly or specifically, including all powers now or hereafter granted, and the specification herein of any particular powers shall not be held to be exclusive or any limitation of this general grant of powers."

Charter section 402 provides in part that:

"Section 4.02. *Administrative Departments*. *Generally.*

"The city council may provide, by ordinance not inconsistent with this Charter, for the organization, conduct and operation of the several offices and departments of the city as established by this Charter, for the creation of additional departments, divisions, offices and agencies, and for their consolidation, alteration, or abolition. When the positions are not incompatible the city council may combine in one person the powers and duties of two or more officers, but notwithstanding the provisions of this section there shall be a separate Police Department, Fire Department, and Free Public Library, each of which shall remain as a separate department with its own department head.

"The city council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter.

". . . . . ."

In 1949, the City of San Mateo, acting pursuant to an enabling ordinance (see discussion, *post*) created a special assessment district in order to obtain funds with which to widen Flores Avenue, to create certain pathways, alleys and parking accommodations, including a specifically described parking lot to be located at the corner of 25th Avenue and Flores Avenue.

In 1950, the parking lot was constructed in conformity with plans approved by the City. It consists of a paved lot with 107 parking spaces. All of the costs of the acquisition and construction of the parking lot were paid for by the City-created special assessment district, with the last of the bonds issued for that purpose maturing in 1965. In 1978, the City approved a lease[2] of the air rights above the parking lot, contingent upon the development above the parking lot by a private developer of a building containing 72 apartments to be available for rent by senior citizens and handicapped persons. We are advised that the existing 107 parking spaces will remain in existence upon the completion of the apartment building with no diminution in the amount of square footage available for such parking and with no change in the use for which such parking spaces have been made available historically.

We are required to determine whether certain Government Code provisions are applicable to the parking facility owned by the City. Stated broadly, those provisions provide that where property is acquired for a particular purpose with funds derived from an assessment district certain requirements must be met in order to use the property for other than the original purposes. For instance, as a condition precedent to the making of a lease the statutes require that the owners of 51 percent of the real property constituting the assessment district sign a petition approving a lease for a purpose other than the original purpose. (Gov. Code,[3] § 50490 et seq.) No such petition has been filed with the city. We set forth three of the sections pertaining to the leasing of real property acquired with assessment district funds.

Section 50490 provides that:

> "Pursuant to this article, the legislative body of a local agency may lease real property owned by it if:
>
> "(a) The property was acquired for a particular purpose with funds derived from an assessment district.
>
> "(b) It appears to the legislative body that it is advantageous to the owners of property in the local agency or assessment district to use the property for purposes other than the original purpose."

Section 50491 provides that:

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[2] (See *Conway* v. *City of San Mateo* (1981) 127 Cal.App.3d 330, 332.)

[3] All unidentified section references are to the Government Code.

"The legislative body shall lease the property upon receipt of a petition signed by the owners of at least 51 percent of the property lying in the assessment district created for the purpose of acquiring the property, and who have paid or are paying special assessment taxes or assessments for the purchase of the property."

Section 50492 provides that:

"The legislative body of the local agency or assessment district shall not lease the property or use it except for the purposes for which it is acquired unless such a petition is filed with it. It may lease or use the property only according to the terms of the petition."

Under the facts presented the real property acquired with assessment district funds will continue to be used for the original purpose but it will also be used for an additional purpose. Arguably, the statutory provisions set forth apply only when the original purpose is to be abandoned or significantly changed by a different use than that for which it was acquired. However, section 50492,[4] read literally, seems to apply to the present situation since the City would be using the property for a purpose other than the original purpose even though merely a purpose additional to that original purpose and not antagonistic to it.

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[4] Section 50490 et seq. was codified in 1949, along with many other uncodified acts, by the addition of title 5 of the Government Code. (Stats. 1949, ch. 81.) However, the substance of these provisions was originally enacted in 1929. (Stats. 1929, ch. 830.) Thus, section 1 of chapter 830 as enacted in 1929 read as follows:

"SECTION 1. Whenever a city, city and county, or county is the owner of real property which has been acquired for a particular purpose by purchase with funds derived from an assessment district, and it appears to the legislative bodies of said city, city and county, or county that it is to the advantage of the property owners lying in said city, city and county, county or assessment district to use said property for purposes other than those for which said property was acquired, power is hereby granted to said legislative bodies to lease said property, subject to the following terms and conditions. Said property shall be leased by said legislative body upon said legislative body receiving a petition signed by the owners of at least fifty-one per cent of the property lying in the assessment district created for the purpose of acquiring said property, and which said owners of property have paid, or are paying special assessment taxes or assessments for the purchase of said property. Said petition may set forth the terms and conditions under which said property may be leased by said legislative bodies for purposes other than that for which said property was acquired. The legislative bodies of said city, city and county, county or assessment district shall have no power to lease said property or to use the same other than for the purposes for which it is acquired in the absence of a petition signed by the owners of at least fifty-one per cent of the property as hereinabove set forth, and then only according to the terms and conditions set forth in said petition."

However, we need not decide whether section 50490 et seq. applies to our situation since the City of San Mateo is a charter city which has the power to lease its real property despite section 50490 et seq. on the basis that it is dealing with a municipal affair. The power of a city to legislate has been summarized in *Alioto's Fish Co.* v. *Human Rights Comm. of San Francisco* (1981) 120 Cal.App.3d 594, 603-604 as follows:

> "Generally, local governments may legislate upon matters of both local and statewide concern. (*Bishop* v. *City of San Jose* (1969) 1 Cal.3d 56, 69-70.) However, under the preemption doctrine, local regulation of matters of statewide concern 'remain[s] subject to and controlled by applicable . . . state laws . . . if it is the intent and purpose of such general laws to occupy the field to the exclusion of municipal regulation.' (Id. at pp. 61-62; Cal. Const., art. XI, § 7.) This doctrine is based upon the superior authority of the state as well as the need to prevent dual regulations which might result in confusion and uncertainty. (*Abbott* v. *City of Los Angeles* (1960) 53 Cal.2d 674, 682.) On the other hand . . . a charter city, 'may make and enforce all ordinances and regulations in respect to municipal affairs, [which] shall supersede all laws inconsistent therewith.' (Cal. Const. art XI, § 5, subd. (a); see also *Smith* v. *City of Riverside* (1973) 34 Cal.App.3d 529, 534.) '[O]rdinances relating to matters which are purely "municipal affairs" are not invalid because they are in conflict with general state laws or because state laws have been enacted to cover the same subject.' (*Baron* v. *City of Los Angeles* (1970) 2 Cal.3d 535, 539; see also *Sonoma County Organization of Public Employees* v. *County of Sonoma* (1979) 23 Cal.3d 296, 315.)"

The determination of what constitutes a strictly municipal affair is often a difficult question of law. (*Sonoma County Organization of Public Employees* v. *County of Sonoma* (1979) 23 Cal.3d 296, 316.) While we must accord great weight to the purpose of the Legislature in enacting general laws which disclose an attempt to preempt the field to the exclusion of local regulation, the fact that the Legislature has chosen to deal with a problem on a statewide basis is not determinative of whether the statute relates to a statewide concern. (Sonoma *County Organization of Public Employees* v. *County of Sonoma*, *supra*, at p. 316; *Bishop* v. *City of San Jose*, *supra*, 1 Cal.3d at p. 63.) Even where the Legislature enacts a statute containing a statement of legislative intent as well as a declaration that the section relates to matters of statewide concern so as to make clear an intent to supersede inconsistent provisions in the charters of local entities, neither the statement of legislative intent nor the declaration is deemed controlling, since the Legislature is not the final arbiter as to what constitutes a matter of statewide concern. (*Sonoma County Organization of Public Employees*, *supra*, at p. 316.)

In the Sonoma County case, *supra*, the Supreme Court stated at page 317:

> "Respondents assert that the principles relied upon by petitioners apply only if the issue is whether local entities are authorized to determine the compensation of their employees in the absence of a conflict with state law, but that whenever such conflict exists the question whether the state statute regulates a matter of

statewide concern 'must be determined from the legislative purpose in each individual instance.' (Citing *Professional Fire Fighters, Inc.* v. *City of Los Angeles*, *supra*, 60 Cal.2d 276, 294.) This argument is without merit. Not only do the first four cases cited in the paragraph above involve a conflict between state and local laws in which the local laws were held to prevail, but in a recent case we cautioned against reliance upon the language quoted by respondents from *Professional Fire Fighters* as a measure of the Legislature's power to affect local concerns."

In *Bishop* v. *City of San Jose*, *supra*, 1 Cal.3d at page 63, the Supreme Court stated that:

"In exercising the judicial function of deciding whether a matter is a municipal affair or of statewide concern, the courts will of course give great weight to the purpose of the Legislature in enacting general laws which disclose an intent to preempt the field to the exclusion of local regulation (see *Ex parte Daniels* (1920) 183 Cal. 636, 639-640), and it may well occur that in some cases the factors which influenced the Legislature to adopt the general laws may likewise lead the courts to the conclusion that the matter is of statewide rather than merely local concern. However, the fact, standing alone, that the Legislature has attempted to deal with a particular subject on a statewide basis is not determinative of the issue as between state and municipal affairs, nor does it impair the constitutional authority of a home rule city or county to enact and enforce its own regulations to the exclusion of general laws if the subject is held by the courts to be a municipal affair rather than of statewide concern; stated otherwise, the Legislature is empowered neither to determine what constitutes a municipal affair nor to change such an affair into a matter of statewide concern.[6]"

In footnote 6, 1 Cal.3d at page 63, the court noted that:

"Any statements to the contrary found in *In re Hubbard* (1964) 62 Cal.2d 119, 127-128, were not only unnecessary to the decision there but are overruled if they be deemed authoritative. In *City of Redwood City* v. *Moore* (1965) 231 Cal.App.2d 563, 580-581, the court was misled into contrary statements by overemphasis on the comment, in *Professional Fire Fighters, Inc.* v. *City of Los Angeles*, *supra*, 60 Cal.2d 276, 294, that the question as to whether a matter is of municipal or statewide concern 'must be determined [by the courts] from the legislative purpose in each individual instance.' As we have noted, the courts will give great weight to the legislative purpose and may be influenced by the same factors as was the Legislature; but the view expressed in *Moore*, *supra*, that the Legislature has 'the power to change a municipal affair into a matter of statewide concern,' is disapproved."

The nature of an assessment district was delineated by the Supreme Court in *Dawson* v. *Town of Los Altos Hills* (1976) 16 Cal.3d 676, where it was noted that:

"A special assessment district—unlike other public districts such as irrigation districts and reclamation districts—is not a legal entity with officers and corporate rights and duties. Rather such a district, in the words of the Municipal Improvement Act of 1913 . . . is merely 'the district of land to be benefited by the improvement and to be specially assessed to pay the costs and expenses of the improvement and the damages caused by the improvement.'" (*Id.*, at pp. 682-683.)

In *County of Riverside* v. *Whitlock* (1972) 22 Cal.App.3d 863, 874, an assessment district was described as an entity which:

". . . simply denotes the land area benefited by the proposed improvements and to be assessed for the costs thereof. The assessment proceeding is an administrative procedure provided by the Legislature to enable authorized governmental entities to provide public improvements of special benefit to only a limited area and to spread the costs upon the lands so benefited in proportion to the benefits conferred."

We note that the court in *Ritzman* v. *City of Los Angeles* (1940) 38 Cal.App.2d 470, 476 stated:

"While . . . [assessment district] improvements are presumed to benefit, particularly, land within the assessment district they are for the benefit of the entire community. We know of no rules giving such an assessment payer a vested right in the improvements, providing that the improvements shall perpetually remain in the same form, or providing that they may not later be changed or even abandoned, in the public interest."

However, while *Ritzman* was decided in 1940 before section 50490 et seq. was codified in the Government Code in 1949, its substance was in existence as an uncodified act (Stats. 1929, ch. 830), thus the court's observation that it knew of no rules giving an assessment payer a vested right in the improvements must be viewed cautiously. (See also *Furey* v. *City of Sacramento* (1979) 24 Cal.3d 862, 876.)

The specific assessment district with which we are concerned was created in 1949 by the City pursuant to its Resolution No. 49-19. The primary function of Resolution No. 49-19 was to authorize the acquisition of certain real property so as to widen Twenty-fifth Avenue and to extend Flores Street, both public streets, and to maintain them. In addition, certain lands were acquired for the purpose of constructing off-street parking. In section 7 of said Resolution it is provided that:

"Said contemplated acquisitions and said proposed work and improvements are of more than local ordinary public benefit, and the cost of said acquisitions and improvements and the incidental expenses thereof will be assessed upon the district

so improved and benefited thereby, which assessment district is described as follows: [legal description omitted]."

Section 9 of said Resolution provides that:

"Notice is hereby given that bonds to represent the unpaid assessments . . . will be issued pursuant to Bond Plan A of Article 134 of the City of San Mateo Ordinance Code. . . ."

Section 10 of said Resolution provides that:

"Except as herein otherwise provided for the issuance of bonds, the land hereinabove described shall be acquired, and all of the above proposed work and improvements shall be done pursuant to the provisions of said Article 129 of said Ordinance Code."

We have examined the San Mateo Municipal Code. Part IX thereof relates to Public Works, Improvement Procedure. (Art. 125 et seq.) Section 129.01 of article 129 provides in part that:

"The whole or any portion of the city may be formed into a municipal improvement district for the purpose of creating a special assessment indebtedness to be represented by bonds of such district, the proceeds from the sale of which shall be used for the acquisition or construction of any public improvement work or public utility which the city shall have been authorized or empowered under its charter or this part to acquire or construct by the levy and collection of assessments upon the real property benefited. Such district shall be formed, and such bonds shall be issued and sold, in the manner and under the proceedings hereinafter set forth."

Section 134.01 of article 134 provides that:

"When bonds are to be issued in any proceeding had and taken in connection with any public improvement and/or acquisition and/or immediate possession, and/or street closing, pursuant to this part, the same shall be issued, paid and collected in accordance with this article."

Section 10.04.010 of the San Mateo Municipal Code provides that:

"19.04.010 COUNCIL POWERS. There is vested in the council the power to install, construct, reconstruct, extend, repair, maintain and operate public automobile parks, public parking garages, public parking lots, and public swimming pools within the city; to acquire, by purchase, lease or eminent domain, the lands and public rights-of-way necessary or convenient therefor, to acquire and

construct public improvements and equipment necessary or convenient therefor, and to levy assessments and issue bonds to pay for the cost thereof and the expenses incidental thereto.

"All powers with reference to the acquisition, construction, reconstruction, extension, repair, maintenance and operation of public automobile parks and parking lots within the city conferred by this chapter, and the procedure, method and other provisions for the formation of assessment districts, the levy and collection of assessments and the issuance of bonds on unpaid assessments, contained in this chapter, insofar as applicable, shall also apply to the acquisition, construction, reconstruction, extension, repair, maintenance and operation of public parking garages and public swimming pools, and the acquisition of land necessary or convenient for such purposes." (Prior code § 133.01.)

Based upon these provisions and in the context of the entire legislative scheme established by the City in its charter and the ordinances adopted pursuant thereto, we conclude that it has established a detailed, comprehensive and complete plan relating to the construction of and payment for local improvements, including off-street parking. We turn then to the relevant case law for an evaluation of the significance of such a complete local plan.

The provisions of an ordinance of a charter city have the same sanction and the same effect that they would have had were they incorporated in the charter itself. (*Raisch* v. *Myers* (1946) 27 Cal.2d 773.) The issue in *Raisch* was the applicable statute of limitations with respect to the foreclosure of a lien pertaining to a street assessment. The court stated:

"The improvement of streets and the collection of the costs therefor are municipal affairs. Admittedly San Francisco being a charter city, its charter supersedes state law in this field, and the provisions of a street improvement ordinance 'adopted pursuant to the authorization of the charter have the same sanction and the same effect that they would have had if incorporated in the charter itself' (*Mardin* v. *McCarthy*, 162 Cal. 94, 100-101; see also *Hayne* v. *San Francisco*, 174 Cal. 185; *Larsen* v. *San Francisco*, 182 Cal. 1) *And ordinance provisions relating to such municipal affairs will prevail over general laws inconsistent or in conflict therewith*. (19 Cal.Jur., 739, p. 411; *Ransome-Crummey Co.* v. *Bennett*, 177 Cal. 560, 567; *Smith* v. *Lighston*, 182 Cal. 41, 47.)" (*Raisch* v. *Myers*, *supra*, 27 Cal.2d at p. 779; emphasis added.)

Thus the court upheld the application of an ordinance provision providing that the lien of a street assessment "shall continue until paid" and refused to permit the application of the statute of limitations specified in the Civil Code relating to the extinguishment of liens by lapse of time. (*Raisch* v. *Myers*, *supra*, 27 Cal.2d at pp. 778-779.)

In *Walker* v. *Van Valkenburgh* (1931) 111 Cal.App. 538, 542-543 the court noted that the Improvement Act of 1911 provides a detailed, comprehensive and complete plan for the

construction of and payment for local improvements. The City of Fresno, a charter city, undertook the construction of certain street improvements utilizing the provisions of the Improvement Act of 1911 except for two provisions of that Act for which it substituted two provisions from one of its local ordinances. The issue was the validity of the two substituted provisions of the local ordinance. The court noted that the charter of the city authorized it to undertake the particular improvements pursuant to section 46, which section read as follows:

> "The Commission is hereby authorized and empowered to construct, reconstruct, repair, maintain and improve streets and highways, and to open and close streets, and to make, acquire, construct, reconstruct, repair, operate and maintain all other public improvements of whatsoever kind or character in accordance with the laws of the state of California now existing or hereafter enacted when the Commission elects to follow such state laws, the city being specially and generally empowered to avail itself of such state laws, and nothing in this section contained shall be construed as an abridgment or limitation of the general power of the city to avail itself of State laws.
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> "The Commission shall also have power by ordinance to provide a plan or scheme for the payment of all or any part of the cost of the improvement, construction, reconstruction, repair, operation or maintenance of any public street, highway or place and of any special lighting or electrolier system, and of the cost of any street opening or closing by the levy and collection of special assessments upon abutting, adjoining, contiguous and other property specially benefited in accordance with the benefits accruing to such property by reason thereof."

The court then reasoned as follows:

> "Under the terms of this charter provision it is evident that the city of Fresno may follow any of the state improvement acts which may be applicable in installing its local improvements. The city has failed to exercise the power seemingly given to it by the charter, and has passed no ordinance providing a plan or scheme for the payment of the cost of the construction of an electrolier system within the city. It therefore must proceed under the provisions of a state statute. In the installation of the work in question here it elected to proceed under the Improvement Act of 1911. Having thus elected so to do the city was bound to follow the provisions of that act and could not proceed partly under the act and partly under some other plan or scheme of its own. (*Cole* v. *City of Los Angeles*, 180 Cal. 617; *Gadd* v. *McGuire*, 69 Cal.App. 347.)
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> "The Improvement Act of 1911 provides a detailed, comprehensive and complete plan for the construction of and payment for local improvements. It is complete in itself. Among other things it provides for the appointment of inspectors to inspect the work during its progress and to see that it is done in accordance with the contract and the plans and specifications. When such inspectors are appointed

> under the provisions of this act and perform their duties in accordance with its requirements, the purposes of the act are fulfilled. We are of the opinion that the city of Fresno has no more authority to provide a separate plan for the appointment and licensing of such inspectors and for the examination and licensing of electricians engaged in the work of performing the terms of the contract and installing the electrolier system than it would have to attempt to dispense with some of the necessary requirements of the Improvement Act of 1911. *It must either proceed under and in accordance with the provisions of the Improvement Act of 1911 or adopt a plan or scheme of its own*, if authorized so to do. It having failed to adopt such a plan or scheme, it cannot, by ordinance or otherwise, change or add to the provisions of the state law under which it is proceeding. (*City of Long Beach* v. *Lisenby*, 175 Cal. 575; *People* v. *City of Long Beach*, 155 Cal. 604.)" (Emphasis added.)

The City of San Mateo, contrary to the actions of the City of Fresno, has adopted its own complete plan or scheme and it has not elected to proceed in accordance with an available state plan or scheme.[5] In *Blake* v. *City of Eureka* (1927) 201 Cal. 643, the owners of the land within an assessment district formed for the purposes of paying the costs of certain improvements of three city streets brought an action seeking to restrain the city from proceeding except in accordance with the provisions of the city charter rather than in accordance with the provisions of the Street Improvement Act of 1911, a state statutory scheme.

The court noted that "the improvement of the streets of the city is a municipal affair and that where there is a conflict between the city charter and the general law in a merely municipal affair the provisions of the charter control." (*Blake* v. *City of Eureka*, *supra*, at pp. 657-658.) The city contended that it had proceeded under the state statute rather than under its city charter since its charter had no provisions establishing a "general scheme of improvement like that set forth in the Street Improvement Act of 1911 or in similar statutes which have been passed from time to time by our state legislature." (*Blake*, *supra*, 201 Cal. at p. 657.) The court noted that the resolutions passed by the city council "in the proceedings to improve said streets where not adopted as ordinances nor were the charter provisions governing the adoption of ordinances complied with by said city council in the passage of said resolutions." (*Blake*, *supra*, 201 Cal. at p. 657.) Rather, those resolutions were adopted pursuant to a specific provision of the city charter that provided that "all improvements and proceedings not otherwise provided for in the charter shall be taken under and in pursuance of the provisions of the laws of the state applicable thereto in force at the time such improvements and proceedings are taken." (*Blake*, *supra*, 201 Cal. at p. 657.) Thus, the court noted, the "true rule . . . is . . . [that] the city is not subject to general laws in matters concerning municipal affairs except as the charter itself may provide." (201 Cal. at p. 659.)

In *Alexander* v. *Mitchell* (1953) 119 Cal.App.2d 816, 827, it was stated that public off-street parking lots "essentially . . . are primarily of local interest just as street and sewer projects are." (See also *Jeffery* v. *City of Salinas* (1965) 232 Cal.App.2d 29, 49-50.) The Legislature has

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[5] Accordingly, we need not reach the issue of whether the 1931 decision of the court in *Walker* reflects current state law on that precise point.

enacted the District Reorganization Act of 1965 (§ 56000 et seq.) which provisions "provide the sole and exclusive authority and procedure for the initiation, conduct and completion of changes of organization and reorganization of districts. (§ 56001.) However, the provisions of that Act are not applicable to a special assessment district (§ 56039).

In *Hiller* v. *City of Los Angeles* (1961) 197 Cal.App.2d 685, 689 it is stated that:

> ". . . a charter city 'has plenary powers with respect to municipal affairs not expressly forbidden to it by the state Constitution or the terms of the charter.' (*City of Redondo Beach* v. Taxpayers, *Property Owners, etc. City of Redondo Beach*, 54 Cal.2d 126, 137.) Not only must any limitations on municipal power be express, they must be *clear and explicit*, and no restriction on the exercise of municipal power may be implied."

Accordingly, it is concluded that the charter and ordinances adopted pursuant thereto of the City of San Mateo have undertaken to establish a complete legislative scheme with respect to street improvement and off-street parking, which matters are municipal affairs so as not to be subject, in this instance, to the provisions of section 50490 et seq.

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