

Federal Court Issues Favorable Decision for Sheppard Mullin Client, Hayward 1900

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On behalf of its client Hayward 1900, Inc., Sheppard, Mullin, Richter & Hampton LLP has successfully staved off two court challenges to a major master-planned community in the Hayward hills. The first challenge was brought under the California Environmental Quality Act (CEQA). The second sought to prevent construction of the project based on the alleged failure to adequately protect the environmentally sensitive habitat of the California red-legged frog and the Alameda whipsnake. The local development approvals for the project were obtained by a team led by land-use partners Lori Wider and Maria Pracher and defended in the lawsuit by a trial team led by litigation partner Philip Atkins-Patterson, assisted by Pracher, Wider and special counsel Kristen Jensen. The federal resource agency permits dealing with the endangered species were obtained by partner Robert Uram and associate Ella Foley-Gannon and defended in court by Atkins-Patterson, assisted by Uram and Foley-Gannon.

In setting aside the challenge to the project brought under the federal Endangered Species Act, U.S. District Court Judge Susan Illston of the Northern District in San Francisco ruled in favor of defendants on all issues, granting their motions for summary judgment and denying plaintiffs' motion for a preliminary injunction. Plaintiffs, which included the Center for Biological Diversity (which aggressively seeks to stop development involving endangered species and critical habitat), sought to invalidate a biological opinion issued by the U.S. Fish and Wildlife Service and a Section 404 permit issued by the Army Corps of Engineers, and to stop construction of the Walpert Ridge project. This decision gives the green light for construction of the project to start in May 2004 as planned by Hayward 1900.

Located on 1,600 acres in the Hayward hills, the Walpert Ridge project is a master planned community that includes homes for 614 families, a clubhouse, a championship golf course, a public community park and a new public elementary school for 650 children. Judge Illston's decision confirms that the construction of the Walpert Ridge project, given its extensive mitigation measures, will result in an environmentally-sensitive project that protects and improves the habitat for both the California red-legged frog and the Alameda whipsnake.

"We are delighted with the court's decision confirming the opinion of the Fish & Wildlife Service and the Army Corps of Engineers that the Walpert Ridge project ensures indigenous species not only survive, but thrive," said Steve Miller, President and CEO of Hayward 1900. "Today's series of favorable rulings brings an end to a long delay in securing the future prosperity of Hayward, including a highly-anticipated new public elementary school."

Judge Illston's decision rejecting plaintiffs' claims that Hayward 1900 violated the ESA follows Hayward 1900's successful defense to a challenge to its Walpert Ridge project brought under the California Environmental Quality Act. On June 13, 2003, Alameda County Superior Court Judge Bonnie Sabraw rejected plaintiffs' efforts to stop construction of the project on the grounds that a supplemental EIR was required for the project. This decision was appealed by plaintiffs (which included the Greenbelt Alliance) and on March 11, 2004, the Court of Appeal granted Hayward 1900's motion to dismiss the appeal.

About Sheppard, Mullin, Richter & Hampton LLP

Sheppard Mullin is a national law firm with more than 400 attorneys and eight offices in Los Angeles, San Francisco, Orange County, San Diego, Santa Barbara, West Los Angeles, Del Mar Heights, and Washington, D.C. The full-service firm provides legal expertise and counsel for U.S. and international clients in a wide range of practice areas, including Corporate; Entertainment and Media; Finance; Government Contracts; Intellectual Property; Labor and Employment; Litigation; Real Estate/Land Use; and Tax, Trusts and Estate Planning. The firm was founded in 1927.