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Search

FAQ

Home


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Minutes

CIV199846 - RAMIREZ CANYON PRESERVATION VS CALIFORNIA COASTAL

Action:

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PETITION FOR WRIT OF MANDATE

2/4/2005 Department: S2

Honorable KENT M. KELLEGREW, Judge presiding. Clerk: KAREN MAIZLAND. Court Reporter: REBECCA SOLIS.

RAMIREZ CANYON PRESERVATION RUND present by counsel Corin Kahn.

JEAN ANDERSON present by counsel Corin Kahn.

CALIFORNIA COASTAL COMMISSION present by counsel Terry Fujimoto.

SANTA MONICA MOUNTAINS CONSERVANCY present by counsel Terry Fujimoto.

MOUNTAINS RECREATION AND CONSERVATION present by counsel A. Catherine Norian.

Briefs have been reviewed by the court.

Counsel have been given the court's tentative ruling.

Matter submitted to the court with argument.

THE COURT FINDS/ORDERS:

Writ of Mandate is granted.

The court enters judgment in favor of the petitioner in this proceeding, and to direct a preemptory writ of mandate directed to the respondent to set aside its April 24, 2000 decision to grant Coastal Development Permit (CDP) 4-98-334.

The court declares that the issuance of CDP 4-98-334 was not in conformity with law, and constituted an abuse of discretion. Code of Civil Procedure section 1094.5. [

At the time the CDP was issued, the Santa Monica Mountains Conservancy was subject to local land use regulation, and respondent concedes that the CDP did not comply with City of Malibu zoning regulations. City of Malibu v. Santa Monica Mountains Conservancy (2002) 98 Cal. App. 4th 1379, 1381.

The court finds that objections to the permit's noncompliance with local land use regulations [

were repeatedly raised during the permit process, that respondent, CCC, had ample notice of this objection and ample opportunity to address this issue at the administrative level during the public hearings on the CDP, and that this ground for challenge to the CDP is not waived.

The court finds that the parties have not briefed CEQA compliance issues, and makes no findings thereon. [

The court finds that the petition sought a declaration only that the issuance of the CDP was unlawful, and has not sought prospective relief requiring an interpretation of the changes to PRC 33008. In light of this judgment, the CDP will be set aside and a decision on how the law will apply to future applications, if any, is premature and beyond the scope of relief sought by the petition.

The court finds that the amendment to Public Resources Code section 33008 continues to allow the Conservancy to make more restrictive uses of State land than permitted by the City, and is neither in conflict with the decision of City of Malibu nor a repudiation of the waiver of sovereign immunity.

The court retains jurisdiction to determine entitlement to attorney's fees.