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INSIDE

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Northridge Quake Reopens Debate Over Historic Buildings

Fillmore Demolishes Masonic Temple, Moves Ahead With Downtown Plan

By William Fulton

The Northridge earthquake has reopened debate over the fate of historic California buildings — and especially old downtown areas — damaged by seismic activity.

The Northridge quake inflicted extensive damage on hundreds of historic buildings throughout Southern California. (See accompanying story.) But post-quake attention has been focused on the small community of Fillmore, in Ventura County, where an historic downtown was heavily damaged. Fillmore demolished its most significant downtown landmark, the Masonic Temple, on February 8 over the objections of preservationists. Meanwhile, the city is also moving

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Momentum Grows For Reform of Housing Elements

HCD, Localities Debate Changes In State Law

By Morris Newman

Efforts to reform the state's housing element law are gaining momentum. A clear consensus has yet to emerge among either policy makers or local housing officials. But support is growing for the concept of "performance-based" criteria for housing elements, as well as greater flexibility for communities in building or financing housing themselves. One of the strongest forces behind the reform, ironically or not, is the state Housing and Community Development Department (HCD), the agency responsible for enforcing housing elements.

In a nutshell, the goal of housing element reform is to make it easier for cities to live up to their state-mandated housing goals, in part by easing the straitjacket of rigid standards.

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News Update Columns Debut This Month

This month, you'll notice a new look on some of *CP&DR*'s inside pages. These changes are part of our ongoing effort to make *CP&DR* more readable and more comprehensive.

This issue introduces three news update columns on pages 2, 3, and 4, covering three topics of vital importance to our readers. On page 2, our "In Brief" column has been replaced with a "Local Planning" column. On page 3, we expand our continuing coverage of school facilities and their relationship to land-use planning with our new "Town & Gown" column. And on page 4, we introduce our new "Base Reuse" column.

The format for all three columns is the same. The column kicks off with a news item of pressing interest in the field that takes up approximately half the page. After that, we provide a roundup of the latest news events we think you need to know.

As for the subject matter, we believe these three columns represent three of the most important areas you need to know about. Longtime readers of *CP&DR* know, of course, that local planning will always be a top priority for us. The Town & Gown column will allow us to comprehensively round up material about a subject — school facilities — we have covered extensively in the last few years. And the Base Reuse column allows us to provide lots of information on a topic that is fast becoming one of the most significant planning and development stories in the state.

As always, we want to know what you think. So take a look at these news update columns and tell us whether you like the format, the content, and the subject matter, and feel free to let us know what we should be doing differently. ❑

LOCAL PLANNING
William Fulton

Dana Point Headlands Project Runs Into the Pocket Mouse

A controversial Dana Point development project has been placed in jeopardy by the emergency listing of the Pacific pocket mouse as an endangered species.

The listing came in the midst of the Dana Point City Council's deliberations over the 120-acre Headlands project, which involves the last undeveloped oceanfront land in that Orange County city. M.H. Sherman Co., the property's longtime owner, has proposed a 400-room resort hotel and 394 homes.

The Dana Point Planning Commission approved the project in December after 10 hearings. The City Council may reach a decision in March, but the project would still require approval of the Coastal Commission. If the pocket mouse's listing is made permanent, the U.S. Fish & Wildlife Service would also have to sign off on the development. Nearby residents have opposed the project and are seeking a scaled-down version.

Species issues are nothing new in Orange County, of course. Both Dana Point and the Sherman company are enrolled as participants in the Natural Communities Conservation Plan process, a large endangered species negotiation that grew out of the listing of the California gnatcatcher, a songbird, as a threatened species. However, the listing of the pocket mouse as endangered was a surprise.

The Headlands project's draft environmental impact report acknowledged that the pocket mouse could be located on the property, although it had not been sighted anywhere nearby for decades. In response to comments from the wildlife agencies on the draft EIR, environmental consultants looked for the mouse on the property — and, to everyone's surprise, found it. A supplemental EIR contained a set of mitigation measures, including relocating the mouse. Because the mouse was not on the federal or state endangered species list, however, the decision on mitigation measures rested entirely with the city, not with the state Department of Fish & Game or the U.S. Fish & Wildlife Service.

However, on February 3, the Fish & Wildlife Service published an emergency rule to list the pocket mouse as endangered. (59 Federal Register 5306.) The emergency listing lasts 240 days, at which time Fish & Wildlife could make the listing permanent. The emergency rule makes clear that the listing came in response to the imminent approval of the Headlands project. The rule notes that a 3.75-acre portion of the Headlands property is now the only known location of the pocket mouse. Fish & Wildlife also concluded that the NCCP currently provides no protection for the pocket mouse, and said the proposed relocation program "has not been fully defined or developed and must be considered highly experimental."

If the project is approved by the Dana Point City Council and the Coastal Commission, the Sherman firm would then be required to obtain a so-called "take" permit from Fish & Wildlife — a process that would permit development to proceed if the wildlife agencies were persuaded that recovery of the species was likely.

The Headlands property, which overlooks the Dana Point Harbor, has been the subject of proposed resort plans for decades. The Sherman company first proposed a resort project, including 800 houses and two hotels, in 1977. That project won approval from Orange County in 1981 and the Coastal Commission in 1986. For a time the Australian developer Quintex held an option on the property but withdrew in 1989, when Dana Point was incorporated.

The property has been owned since the 1940s by the M.H. Sherman Co. and Chandis Securities, which handles the financial holdings of the Chandler family, the founders of the Los Angeles Times. Early in this century, Moses Sherman and Harry Chandler pioneered the concept of the real estate syndicate, which helped them develop large portions of the Los Angeles area. ❑

■ Contacts:
Ed Knight, City of Dana Point, (714) 248-3567.
Dan Daniels, M.H. Sherman Co., (714) 642-1620.

Fresno Approves Quail Lake Project

A 730-home development east of Clovis has received tentative approval from the Fresno County Board of Supervisors, although nearby residents and other critics argued that it would set a precedent for leapfrog development in the county.

The supervisors approved the Quail Lake Estates project after the developer, Quail Lake Estates of Oakland, reduced the size of the project from 1,014 houses to 730.

A county staff report recommended denial of the project, which created a new land-use designation for "Planned Rural Community" projects. "The amendments would allow for scattered and isolated urban pockets in areas where urban services do not presently exist, would create [noncontiguous] community service and would create the potential for greater conflicts with surrounding agriculture and rural residential land uses," the staff report said.

An opposition group, Citizens for the Preservation of a Rural Fresno, argued that approval of Quail Lake and creation of the new land-use designation would make it easier for the county to approve similar projects in the future. After 5 1/2 hours of testimony, the supervisors approved the project, 4-1. The only opponent was Supervisor Sharon Levy, who called the 4,000-to-5,000-square-foot lots too dense.

The supervisors are expected to give the project final approval on March 22. ❑

County Move on Bolsa Chica Questioned

The debate over which jurisdiction should process the Bolsa Chica project near Huntington Beach has heated up in recent weeks following a decision by Orange County not to hold a public hearing on the draft environmental impact report.

Koll Real Estate Co. wants to build 4,200 homes on 400 acres, and has also offered to contribute $48 million toward restoration of wetlands in the Bolsa Chica area. Koll recently decided to try to process the project through the county rather than through Huntington Beach, even though the property is entirely surrounded by Huntington Beach territory.

The deadline for commenting on the draft EIR was February 18. County officials said they usually do not hold hearings on draft EIRs, and stated that hearings on the project will commence in May, when the final EIR is scheduled for release. ❑

McFarland to Annex 12 Square Miles

The Kern County community of McFarland, which currently encompasses less than 2 square miles, is making big plans to annex an additional 12 square miles along Highway 99 — a move that would impinge on Delano's sphere of influence to the north and edge close to Wasco and Shafter to the south.

Many cities along Highway 99 in Kern County have sought aggressive territorial expansions. Two years ago, for example, Shafter — also a city of 2 square miles — proposed a 6.7-square-mile expansion, partly to control development of the Mintier Field Airport east of Highway 99.

McFarland, which has 7,700 people, seeks the expansion to stabilize its tax base. "This is the only way we have to stabilize and move on," Mayor Rubin Garza told the Bakersfield *Californian*. ❑

TOWN AND GOWN
William Fulton

More School Districts Turn to Bond Elections

Increasingly, school districts around the state are turning to general obligation bond elections to raise local money for school construction. It's a logical step, given the increasing difficulty in obtaining fees and mitigation from developers for the effects of new growth. And while conventional wisdom suggests that getting the two-thirds vote required by Proposition 13 is a tough trick, it's apparently possible.

According to the underwriting firm of Stone & Youngberg, 45% of all general-obligation school bonds placed on the ballot between 1983 and 1993 passed (125 out of 276). Though this figure is lower than many school officials might like, it's far higher than the passage rates for parcel taxes (40.2%) and Mello-Roos taxes (only 25.6%).

And school officials are spending more time strategizing on how to win general-obligation bond elections. A discussion at last month's annual conference of the Coalition for Adequate School Housing in Sacramento revealed that more and more school districts are going to a bond election only after a series of important preliminary steps, including surveys to determine what level of bonding the public will support.

Greater local support for school facilities is one of the major issues in the school funding arena. Under a legislative agreement struck in 1986, school officials are supposed to raise local funds through bonds and fees from developers, while the state is supposed to make up the difference with money from its own bond issues. But state bond proceeds have never been sufficient to cover need, while school districts have often struggled with local governments over obtaining mitigation fees from new development projects. And Proposition 170, which would have permitted the passage of local school bonds with a simple majority vote, received only 30% of the vote in a statewide election last November.

The CASH conference's discussion on local bond elections showed how some school districts are getting more politically savvy. Four school administrators from the Roseville area discussed how they learned from their mistakes after a disastrous 1989 attempt to pass a Mello-Roos taxing district. After intense planning, polling, and community outreach, the four districts (one high school district and three elementary school districts) returned to the voters in 1991 and 1992 and obtained two-thirds approval for close to $100 million in general-obligation bonds.

Much of the advice was standard election strategy. For example, after failing with a $50 million Mello proposal in 1989, the Roseville City Elementary School District returned with a $20 million bond proposal in 1992 — the result of advance polling that sought to determine a bond level that the public would support. Other school officials from the Roseville area said they (1) included construction projects that could be completed quickly, so voters would see results and be sympathetic toward the next bond issue, and (2) included improvement projects for many different schools, so frontline teachers would have reason to support the bond proposal.

Inevitably, however, the school districts must face the politically tricky question of how to handle developers. In many communities — and especially in high-growth but tax-resistant areas such as Roseville — residents blame new development for most school overcrowding problems.

The answer seems to be: Rely on developers for financial and logistical support, while still making them bad guys in the campaign. "We've got to make it clear that developers are paying their own way," said Deborah Bettencourt, assistant superintendent of Roseville City Elementary. Her district's materials emphasized that in new tracts, developers paid 100% mitigation fees. The other districts publicized the fact that they had obtained at least 50% mitigation from developers.

Yet at the same time, developers are eager to bankroll the campaigns. Robert Tomasini, superintendent of Roseville Joint Union High School District, said developers put up $25,000 of the $40,000 required to run the high school district's successful $51 million bond election. One developer also donated offices and phone banks for use on election night. ❑

Will Cities Do Plan-Checks On Schools?

Assemblywoman Delaine Eastin, chair of the Assembly Education Committee and a candidate for state school superintendent, has proposed allowing local governments to conduct plan-checks for school buildings.

Eastin's AB 2580 would permit local governments to take on the task voluntarily, just as local governments may now do plan-checks for hospitals.

All school plan-checks are now conducted by the Division of the State Architect. But plan-checks through the state can be long and cumbersome. Eastin said recently she made the proposal as a means of streamlining the process of approving and building schools. (Like the Division of the State Architect, local governments would do the plan-checks on a 100% cost-recovery basis.)

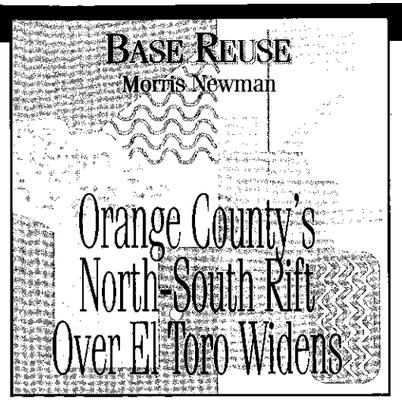
Critics are skeptical of the idea, however. For one thing, critics say, many local governments are overburdened and do not have the engineering expertise on staff to handle review of the state's extensive technical requirements for school buildings. Beyond that, they point out that local government response to the hospital plan-check program has been less than overwhelming; only Irvine has been certified by the state to do such plan-checks. ❑

Development Fee Cap Raised

The State Allocation Board has once again increased the maximum development fees school districts may impose directly.

The fee caps are now $1.72 per square foot for residential buildings and 28 cents per square foot for commercial and industrial buildings.

When the school fee law passed in 1986, the fees were $1.50 and 25 cents. However, the State Allocation Board may raise the fees to account for inflation. ❑



Local officials in north and south Orange County face a deepening rift regarding the future reuse of El Toro Marine Corps Air Station.

The City of Irvine reached a "separate peace" with county officials in mid-January, when the city agreed to share power with county supervisors on a base commission, the El Toro Reuse Planning Commission. However, at least 12 north county cities oppose the new arrangement, and are apparently seeking to derail the proposed joint-powers authority before it gains federal recognition as the local lead agency for base reuse.

The nine-member base commission will include three representatives from Irvine, one from the City of Lake Forest, and all five county supervisors. Lake Forest officials agreed in principal to join the board on January 18. The board must be approved by city councils of both cities and the county supervisors.

Prior to the agreement, Irvine officials and county supervisors had openly feuded for control of the board, with Irvine fearing the county would ram through plans for a commercial airport. (*CP&DR*, October 1993.) As recently as January 8, Orange County Supervisor Harriett Wieder criticized the city in a public hearing as "getting a little too hoggish" for insisting on the right to annex the 4,700-acre site. In the end, the city backed down from its annexation demands in favor of a vague promise from the supervisors to "seriously discuss the city's future annexation of all portions of the base not designated for public benefit conveyance or negotiated sale to the County of Orange."

Irvine also compromised by reducing its representation from five seats to three. The city may have been "knuckled under" by the supervisors' threat to expand the board to include north county cities. Meanwhile, a group of five North Orange County cities — Garden Grove, Los Alamitos, Newport Beach, Seal Beach and Stanton — have formed an opposition group called Orange County Regional Airport Authority, with the intent of lobbying the federal government for an international airport at El Toro. ❑

Norton Conveyed To Local Authority

The Pentagon has finalized the lease to convey 1,313 acres of Norton Air Force Base to the San Bernardino International Airport Authority in San Bernardino County.

The air field, which features a 10,000-foot runway, was promptly designated the San Bernardino International Airport by local officials; the actual site was about 30 acres smaller than the airport authority had originally requested. President Clinton released a statement praising the lease as a demonstration that local communities "can rise to the challenge of finding productive ways to put economic assets like a military base back to job-creating uses." The closure of the base is expected to cost the region 10,000 jobs.

On the same day, Pentagon officials said Norton was still in the running to be the new location for the Defense Department accounting center with 4,000 employees. The Pentagon suspended the process in 1992 shortly after Clinton took office, after the new president objected to the practice of forcing local governments to compete in incentives for federal agencies to relocate in their communities.

The Inland Valley Development Agency, the joint powers authority responsible for base reuse, was unable to convince federal authorities to give up an existing golf course on the base. The 170-acre Palm Meadows golf course earns about $135,000 annually, and may be sold to a private operator. ❑

Debate Intensifies Over Future of Miramar Station

The idea of using Miramar Naval Air Station in San Diego as an international airport is causing a rift among local politicians there.

Pam Slater, chair of the San Diego County Board of Supervisors, recently criticized the idea of converting Miramar, which is not currently scheduled to close, into an international airport, endorsing instead the expansion of Lindbergh Field. Slater said the local economy could not afford to lose the military presence at Miramar.

Slater's remarks underscore a growing polarization between the City of San Diego and the county at large on who should have the final say in the reuse of Miramar, should the naval base close. Three of the county's supervisors — Leon Williams, Dianne Jacob, and Brian Bilbray — reportedly favor a ballot measure on the issue. Slater has stated that the City of San Diego should make the final decision on the future of Miramar, rather than putting the question to county voters. ❑

Base Briefs

Rep. Ron Dellums, D-Oakland, said he is willing to change language in a bill he wrote in December that stated the Army need not convey the 1,500-acre Presidio to the National Park Service, as long planned, "unless and until the Secretary of the Army determines the parcel proposed for transfer is in excess of the needs of the Army." After protest by several area congress members, Dellums sent a conciliatory letter to Rep. Nancy Pelosi, D-San Francisco, promising to "ensure a prompt, fair and effective conclusion" to negotiations between the Army and the park service on the park transfer. The Army plans to transfer the Presidio to the park service in September....

Assemblyman Joe Baca, D-San Bernardino, has introduced a bill to place a $900 million bond measure on the ballot to cover the cost of repairing deteriorating roads, sewer lines and telephone systems at decommissioned military bases. In a statement, Baca said such repairs are necessary "to attract private or public investment" to former bases. If AB 5 is enacted, the bond issue would appear on the November 8 ballot....

The March Joint Powers Commission, the agency which is overseeing the reuse of March Air Force Base, has asked the Southern California Association of Governments to conduct new studies on the passenger and cargo demand at March through the year 2010. Local officials expect the report will make March appear more attractive as a commercial air field. Mike Armstrong, senior aviation planner for the joint-powers association, has said that the future of March depends on whether or not Orange County officials choose to convert El Toro to a commercial air field. March is scheduled to be downsized and converted to a reserve facility in two years. ❑

CP&DR
LEGAL DIGEST

Soka Loses a Round in Condemnation Fight

Appellate Court Dismisses Challenge To Conservation Agency's Powers

Soka University's attempt to challenge condemnation of its property in a Ventura County courtroom has been rebuffed by the Second District Court of Appeal's panel in Ventura.

In one of the most bitter land-use disputes in Southern California, the Mountains Recreation and Conservation Authority — a joint-powers agency — is seeking to condemn Soka's 245-acre parcel of land in the Santa Monica Mountains near Calabasas in Los Angeles County. However, Soka challenged MRCA's power to condemn by filing suit in Ventura County, where two of MRCA's three parent agencies are based.

Soka won a favorable ruling from Ventura County Superior Court Judge Barbara Lane. But in an unpublished opinion, Division Six of the Second District ruled that Soka's lawsuit should be consolidated with the eminent domain action in Los Angeles County. Soka lawyers said they would appeal the case to the California Supreme Court.

The appeal to the Supreme Court will be the latest in a long and complex series of chess-like moves between Soka and land conservation agencies in the Santa Monica Mountains. The Soka property near Calabasas contains both environmentally significant land and historic structures designed by the eminent architect Wallace Neff for razor magnate King Gillette, who once owned the property. The land has long been coveted by both the National Park Service and the Santa Monica Mountains Conservancy, which see it as a crucial link in the Santa Monica Mountains park system and a potential visitor center. Soka currently operates a small campus but has announced a 1.5-million-square-foot expansion that would accommodate 3,400 students. After a set of unsuccessful negotiations over prospective sale or joint use of the property, MRCA initiated condemnation proceedings in late 1992. (*CP&DR Deals*, March 1993.)

MRCA is a joint-powers authority made up of three entities: the Santa Monica Mountains Conservancy, which is a state agency, and two parks districts in Ventura County which are ultimately under the authority of the Ventura County Board of Supervisors. Thus, although the condemnation proceeding is occurring in L.A. County and involves land in L.A. County, approval by the Ventura County Board of Supervisors was a necessary pre-requisite.

The Ventura County board approved MRCA's decision to pursue eminent domain at a meeting in November 1992. Before MRCA filed the condemnation lawsuit, however, Soka filed its own suit in Ventura County Superior Court. Under Code of Civil Procedure §1245.255, property owners may challenge the "resolution of necessity" for the eminent domain prior to the commencement of an eminent domain proceeding. However, the courts are required to dismiss such actions when eminent domain proceedings begin "unless the court determines that dismissal is not in the interests of justice."

The Soka lawsuit challenged the Ventura board's power to authorize condemnation of land in L.A. County and challenged MRCA's power of eminent domain.

Soka also argued that MRCA violated the California Environmental Quality Act by declaring the condemnation exempt from CEQA review. MRCA had relied on CEQA's exemptions pertaining to the acquisition of land for parks, open space, and wildlife preservation. Soka claimed that MRCA did not intend to maintain the land in its current state but, rather, convert it into a visitor center for the National Park Service. Although park officials have openly discussed that possibility, MRCA's lawyers claim that no such decision has been made.

Meanwhile, MRCA filed its eminent domain proceeding in L.A. County Superior Court. Seeking to obtain dismissal of Soka's lawsuit in Ventura County, MRCA argued that under Code of Civil Procedure 1245.255, any writ of mandate petition must be dismissed when eminent domain proceedings commence. Judge Lane ruled that CCP 1245.255 did not apply in this case and ruled in favor of Soka on the merits. Among other things, Judge Lane ruled that the Ventura board did not have the power to authorize condemnation in L.A. County, and that the Santa Monica Mountains Conservancy did not have the power to authorize condemnation without first securing the approval of the state Public Works Board. (This little-known board is made up of the directors of Caltrans, the Department of Finance, and the Department of General Services, and holds authority over all condemnations by state agencies, with a few notable exceptions such as Caltrans and University of California.) In L.A. County, Judge Barnet Cooperman stayed the eminent domain action pending the outcome of Soka's Ventura County suit.

MRCA then appealed to the Second District panel in Ventura, arguing that CCP 1245.255 did, indeed, apply, and that the Soka case should be dismissed. At oral argument in December, the Division Six justices appeared uncertain about the direction the case should go — debating in public, for example, about whether they should hear only the procedural argument or also permit argument on the merits of the case. Although they heard arguments on the merits, they spent most of their time on the procedural argument and appeared split at that time. For example, while Justice Arthur Gilbert suggested that "common sense" would dictate dismissal of the suit, Justice Kenneth Yegin grilled MRCA's lawyers on whether dismissing the case wouldn't "give you two bites at the apple."

In the unpublished opinion, however, Division Six unanimously agreed to reverse Judge Lane on the procedural issue, forcing Soka to raise its issues again in the condemnation proceeding before Judge Cooperman in Los Angeles. "It would be a waste of judicial and other public resources if a property owner could challenge each step of the taking process by writ brought separate and apart from the eminent domain action," wrote Justice Gilbert for the panel. "[A]n aggrieved party has an adequate remedy in the eminent domain action for a challenge to the right to take." ❑

- The Case:
  Soka University of America v. Board of Supervisors, No. B074508 (February 15, 1994).
- The Lawyers:
  For Soka University: Glen M. Reiser, (805) 988-0826; Hodge Dolle, Dolle & Dolle, (310) 478-7516; William Ross, Ross & Scott, (213) 892-1592.
  For MRCA: Robert I. McMurry, McMurry, Russ, August, Kabat & de Recat, (310) 826-7474.
  For Santa Monica Mountains Conservancy:

Terry T. Fujimoto, Deputy Attorney General, (213) 897-2706.
For Ventura County Board of Supervisors: Frank O. Sieh, (805) 654-2197.

ENDANGERED SPECIES

Human Concerns Must Balance Species Laws, Florida Court Rules

An appellate court in Florida has struck down a county ordinance that prohibits fences on one Florida key, supposedly to protect endangered species.

In making the decision, a split three-judge panel of Florida's Third District Court of Appeal called the absolute fence prohibition overbroad and unnecessary to protect the Key Deer, a species that has been listed as endangered by the U.S. Fish & Wildlife Service. But the majority also concluded that — at least in Florida — "we must be careful not to escalate the goal of preservation of an animal species over human life."

The case involved an attempt by four property owners to include fences in their subdivisions on Big Pine Key in Monroe County, Florida. The property owners received fence permits from the county government even though the Monroe County Land Development Regulations banned all fences and contained no provision for exceptions.

Under a state law designating the Florida Keys as an area of critical state concern, Monroe County was to have completed a "focus point plan" for Big Pine Key in 1987. One of the purposes of the plan was to provide fencing criteria. However, the plan had not been completed in 1991, when the county took its action in this individual case. Subsequently, Florida's Land and Water Adjudicatory Commission rescinded the fence permits as contrary to the county's regulations. The property owners then appealed to the Court of Appeal.

In ruling for the property owners, the appellate majority focused on two issues. First was the question of whether the fence prohibition actually achieved the goal of protecting the deer. The majority found that it did not, pointing to testimony from a biologist for the Department of Community Affairs that there was no biological basis for objecting to fences on three of the four properties in question. The court also pointed to testimony from one property owner who said the fence would protect the deer from his Rottweiler.

Second — and perhaps more important — the majority ruled that at least in the context of Florida law, species protection must be balanced against the rights of property owners. Because the state's critical areas law requires protection of private property rights, species protection must be "narrowly tailored" to protect the deer "through the least restrictive alternative."

"Accordingly," the majority wrote, "we hold section 9.5-309(e), MCLDR (the county's regulations), is facially unconstitutional because the method chosen by the legislature is not narrowly tailored to achieve the state's objective of protecting the Key Deer. This is particularly so because property rights are protected by numerous provisions in the Florida constitution."

Chief Judge Alan Schwartz dissented in part, claiming that the majority had overreached. Schwartz said he agreed that the county regulation was invalid insofar as the property owners' fence is concerned, but added: "It is neither necessary nor appropriate to strike down the entire regulation which may well be — indeed apparently is — otherwise an appropriate and valid exercise of the state's police power to protect our environment and wildlife." ❑

■ The Case:
Moorman v. Department of Community Affairs, 626 So. 1108.
■ The Lawyers:
For Property Owners: Theodore W. Herzog, Key West, (305) 293-9655.
For Department of Community Affairs: Katherine Castor, Assistant General Counsel, Tallahassee, (904) 488-0410.

CEQA

Ahmanson Ranch Case May Be Test Of Narrower CEQA Interpretations

Ventura County's Ahmanson Ranch project has already set a record for drawing more lawsuits than any other private development project in recent memory. And though the litigation is still pending in the trial court, it's shaping up as potentially important — especially in light of the California Supreme Court's recent attempts to restrict the scope of litigation under the California Environmental Quality Act.

Nine lawsuits were originally filed against Ventura County on the Ahmanson project — four by neighboring jurisdictions, two by homeowner associations, one by an environmental group, and two by individual citizens. Having consolidated these cases, Ventura County Superior Court Judge Barbara Lane heard oral arguments in mid-February and indicated that she is feeling constrained by the Supreme Court's edicts that CEQA should be used as a mitigation tool rather than a tool to delay or stop development projects.

The Ahmanson Ranch project was approved by the Ventura County Board of Supervisors in December 1992. The project calls for construction of some 3,000 houses, 400,000 square feet of commercial space, and a golf course on property adjacent to the Los Angeles County line. Project approval was part of a larger deal under which land conservation agencies would buy or receive via dedication some 10,000 acres of undeveloped land in the Santa Monica and Santa Susana mountains. Though the Ahmanson Ranch is located in L.A. County, all of the traffic would flow across the county line.

Plaintiffs in the lawsuit include L.A. County, the cities of Los Angeles, Calabasas, and Malibu, the environmental group Save Open Space, and three homeowner associations. They have made a variety of arguments under CEQA, including a faulty project description, a faulty statement of overriding consideration, failure to recirculate the environmental impact report when required, and inadequate traffic mitigation.

CEQA lawsuits have traditionally given California courts wide latitude to broaden the nature and scope of environmental review in California. In the last three years, however, the Supreme Court has given strong signals that CEQA litigation should be scaled back. In the so-called Goleta case in 1991, the Supreme Court ordered limited judicial review of CEQA, saying the purpose of the law "is not to generate paper, but too compel government at all levels to make decisions with environmental consequences in mind." The court noted that CEQA "does not, indeed cannot, guarantee that these decisions will always be those which favor environmental considerations." (*Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553.)

And earlier this year, in ruling that recirculation was not required in the so-called Laurel Heights II case, the Supreme Court set a high standard for recirculation of environmental impact reports, leading dissenting Justice Ronald George to criticize the majority for "an unnecessarily narrow interpretation" of CEQA.

Goleta and Laurel Heights II case long shadows over Judge Lane's courtroom in Ventura, especially since the Ahmanson Ranch case involves a recirculation issue. Though Judge Lane gave the lawyers involved a list of six CEQA issues that she regarded as particularly important, at the same time she indicated that she felt constrained by the Supreme Court's recent edicts. Over and over again, she asked the plaintiff's lawyers to back up their CEQA points not with vague arguments about what is in the best interest of the environment, but with specific cases, code sections, and references to the CEQA Guidelines.

At one point, L.A. County counsel Richard Weiss pointed out that the Ahmanson Ranch development agreement specifically prohibits the county from including the Ahmanson project in future regional traffic mitigation measures and argued that the county had failed to provide substantial evidence as to why this was so. Lane had already indicated that regional traffic impacts were among her major concerns. Yet she replied to Weiss's argument by saying: "Hasn't the Supreme Court ruled that trial judges can't be traffic planners?"

At the beginning of the oral argument, Lane agreed to release Potomac Investment Associates from the litigation — a move that allowed the plaintiffs to use PIA's apparent non-involvement to make a whole series of attacks on the CEQA process. PIA had proposed a separate development project on a nearby property, the Jordan Ranch. (Jordan Ranch was owned by Bob Hope but PIA had an option on it.) As part of a complicated deal, PIA agreed in 1991 to move its proposed development to the Ahmanson Ranch, while Hope agreed to sell Jordan to the National Park Service.

However, PIA and Ahmanson have never reached an official agreement for a combined development project, and Hope sold the Jordan Ranch to the Park Service in 1993 independently of the Ahmanson deal. This was the basis for PIA's request to be released from the litigation.

But Mark Weinberger, representing the City of Malibu and the Mountain View Estateowners Association, argued that the project description, the alternatives analysis, and the statement of overriding consideration all were faulty because PIA and Ahmanson had never reached a business agreement. Because the combined PIA-Ahmanson project was "illusory," Weinberger argued, the project description was faulty. The alternatives analysis did not take into account alternative ways to obtain the Jordan Ranch, he added, even though Jordan was eventually acquired through an alternative method. And the statement of overriding consideration, which relied on the need to build Ahmanson in order to obtain Jordan, was also faulty, he argued.

Despite the pleas of Ahmanson and county lawyers, Lane appeared impressed by the argument. "The question is, do we have a stable, consistent project description, and I am deeply concerned that we do not," she said. ❑

■ The Case:
County of Los Angeles v. County of Ventura, Ventura County Superior Court No. 124610
■ The Lawyers:
For L.A. County: Richard Weiss, (213) 974-1823.
For City of Malibu and Mountain View Estateowners Association: Mark Weinberger, (415) 552-7272.
For Save Open Space: Rosemary Woodlock, (818) 703-7609.
For City of Calabasas: Charles Vose, (213) 621-2000.
For City of Los Angeles: Keith Pritzker, Deputy City Attorney, (213) 485-7513.
For Ahmanson Land Co. and Ventura County: Steven Weston and Steven Vining, (213) 623-2322.

ENVIRONMENTAL LAW

Federal Government Acted Properly In Restricting Ocean Harvest of Salmon

The federal government's decision to regulate the harvest of the Klamath chinook salmon by using an emergency regulation wasn't arbitrary or capricious, a federal judge in San Francisco has ruled.

Judge Thelton Henderson's ruling essentially upheld a decision by the Commerce Department to hold the ocean harvest rate of the salmon at 14.5% last year, rather than increasing it to 22%, as an advisory council suggested. However, Henderson did not uphold the Commerce Department's decision to increase the "spawning escapement floor" — the minimum number of naturally spawning adults — from 35,000 to 38,000. Henderson ordered the Commerce Department to present more evidence that such an increase is needed.

The Klamath chinook dispute typifies the complicated balancing of interests required when government agencies and other interest groups deal with fishing issues. The chinook spawns in the Trinity and Klamath rivers in far northern California. The Interior Department, which serves as trustee for the Yurok and Hoopa Valley tribes who fish these rivers, is responsible for setting the salmon harvest levels for the tribes. Meanwhile, the Commerce Department has jurisdiction under the so-called Magnuson Act to set harvest levels more than three miles offshore in the ocean. In addition, of course, California has jurisdiction over the area between the coast and three miles out.

Under the Magnuson Act (16 U.S.C. §1801 et. seq.), the Pacific Fishery Management Council is charged with drawing up the fishery management plan for the chinook fishery, and also for recommending seasonal adjustments. The Commerce Secretary then reviews these plans for consistency with seven national standards, and may approve or disapprove the council's recommendations. The Commerce Secretary may also issue emergency regulations in the event of an emergency.

In 1984, the Commerce Department adopted a multi-year management plan for the chinook fishery that created the 35,000 "spawning escapement floor." In 1993, the regional council proposed maintaining the floor, but also suggested an ocean harvest of 22% of total salmon population — a significant increase over 1992. The council also proposed a 32.5% in-river harvest for the two Indian tribes. Through the Interior Department, the tribes sought a 50% in-river harvest.

The Commerce Secretary rejected the regional council's recommendations. After negotiations, the Commerce Department and the Interior Department agreed to the following deal: The Interior Department agreed to limit the tribal harvest to 44.6%, while the Commerce Department — recognizing past failure to reach the spawning escapement floor — agreed to increase that floor from 35,000 to 38,000 salmon. (In 1992, the escapement goal had been only 11,000 salmon.) To make room for both these goals, the Commerce Department agreed to reduce the ocean harvest to 14.5% — well below the regional council's recommendation of 22%. The Commerce Secretary subsequently issued an emergency regulation enacting the ocean harvest and escapement floor goals. Fishing interests then sued in the U.S. District Court for the Northern District of California.

The fishing interests argued that the Commerce Department's decision was arbitrary and capricious. The Commerce Department responded by arguing that the regional council's recommendations were inconsistent with one of the seven national standards in the Magnuson Act, which seeks to prevent overfishing while still maintaining the optimum yield for American fishing interests. On this argument, Judge Henderson agreed with the Commerce Department, concluding that if the tribes fished 50% of the stock and the ocean fishing vessels fished 22%, then it would be impossible to meet the escapement goal. ❑

■ The Case:
Parravano v. Babbitt, No. C93-2003, U.S. District Court for the Northern District of California.

Fillmore Will Proceed With Downtown Plan

Unlike many other California downtowns ravaged by earthquakes in the last decade, Fillmore has a plan to redevelop its core.

Fillmore's downtown specific plan was completed prior to the earthquake and had been scheduled for adoption on January 20. The city is now re-analyzing some issues raised by the potential demolition of quake-damaged buildings and the council is scheduled to consider adoption in late March.

The city commissioned the downtown plan after purchasing a major parcel of land (300 feet wide and six blocks long) from Southern Pacific Railroad. The parcel abuts the city's Central Park as well as the Short Line Railroad, which is used for film shooting and is emerging as a tourist attraction. The property lies one to two blocks south of the traditional center of downtown, in the vicinity of the now-demolished Masonic Temple building. The property also lies closer — only one block away — from the city's main commercial strip.

Prepared by Mainstreet Architects of Ventura, the plan calls for a re-focusing of downtown away from the traditional commercial area around the Masonic Temple to the railroad property. The plan anticipates a variety of tourist-oriented uses being constructed along the railroad, including a festival retail marketplace with a lemon-packing theme. Much of the plan would be implemented with redevelopment funds. Two-thirds of the city is located in a redevelopment area created in 1980, and Fillmore now receives more than $1.5 million in tax-increment funds annually.

The plan also calls for the construction of two new landmark buildings on the east side of Central Park to "frame" the park, converting it into a traditional "town square." The city's economic and planning consultants, David Wilcox of ERA and Nick Deitch of Mainstreet, acknowledged that, prior to the earthquake, private-sector prospects for these buildings were slim. "This is a 15-year plan," said Wilcox.

However, the week after the earthquake, Commerce Secretary Ron Brown visited Fillmore and encouraged the city to make an application to the Economic Development Administration (part of his department) to fund a building that would house merchants temporarily until their own buildings are repaired.

City officials then began to think that the EDA grant would help them build one of the landmark buildings on the east side of Central Park. That building would be used temporarily for merchants and then, permanently, as a City Hall.

In the meantime, city officials declared the Masonic Temple unsafe and demolished it.

Fillmore is now preparing the EDA grant application. However, city officials are undecided about where to locate the building. They might choose to put it on the east side of the park, creating one of the landmark buildings called for in the specific plan. Or they might choose to put it on the Masonic Temple site, thus reinforcing that intersection as the traditional center of the downtown area. That decision would probably require a change in the specific plan, which places a two-story height limit on new construction.

The specific plan is being retooled slightly to deal with the possibility that one-story buildings damaged in the earthquake will be razed and replaced with two-story buildings. And displaced downtown merchants have moved into temporary buildings constructed in the middle of Central Park. ❑

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Hundreds of Historic Buildings Damaged in Northridge Quake

Fillmore was not the only place where historic buildings and structures suffered extensive damage from the Northridge earthquake. The quake caused problems for literally hundreds of historic buildings, especially in older neighborhoods in Santa Monica, Hollywood, and the Wilshire District of Los Angeles. Among the casualties were:

• The Los Angeles Memorial Coliseum, one of only 15 designated national historic landmarks in L.A. County. Local and state officials moved quickly to authorize repairs on the Coliseum, largely because the University of Southern California and the L.A. Raiders must play football games there this fall. Some observers criticized them for providing open-ended contracts for repairs.

• The Egyptian Theater and the Brown Derby in Hollywood. The Brown Derby was demolished. Though not the original Brown Derby (that's on Wilshire Boulevard), the Hollywood Brown Derby was a significant historic building in its own right.

• A wide variety of buildings in Santa Monica, including several historic apartment buildings and churches. Santa Monica officials, working in concert with preservationists, sought to minimize demolitions and hired a structural engineer with expertise in historic buildings.

• A collection of commercial and apartment buildings along Hollywood Boulevard east of the Hollywood Freeway. This area was under consideration as a historic district and preservationists say this possibility may be eliminated if enough buildings in this area are demolished. However, the historic district further west on Hollywood Boulevard — between Cahuenga Boulevard and the Chinese Theater — is not in similar danger.

Under a memorandum of understanding signed by the disaster relief agencies — the Federal Emergency Management Agency and the state Office of Emergency Services — historic preservation issues are supposed to be taken into account in the expenditure of federal and state disaster relief funds. Like other federal agencies, FEMA is bound by Section 106 of the National Historic Preservation Act to assess the impact of its actions on historic resources. But according to preservation attorney Bill Delvac, a consultant to the state Historic Preservation Office, these agreements do not guarantee that historic buildings will not be demolished. Like state and federal environmental review laws, they merely require that decision-makers consider historic preservation issues before making decisions. "We don't have an iron-clad anti-demolition law, even for buildings damaged."

The California Preservation Foundation will conduct two workshops on retrofitting historic buildings using the State Historic Preservation Code. One is scheduled for Whittier on April 15, and the other will be held in Oakland on April 18. ❑

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Fillmore Damage Rekindles Debate About Historic Buildings

Continued from page 1

forward with a specific plan for the downtown area that was prepared prior to the quake — and could provide the framework for rebuilding the downtown area. (See accompanying story.)

The Northridge quake was at least the sixth major earthquake in the last decade to heavily damage historic downtown areas in the state. Other downtowns affected include Coalinga (1983), Whittier (1987), Santa Cruz, Watsonville, and Los Gatos (1989), Sierra Madre (1991), and Ferndale and Eureka (1992). But local response to historic structures has varied widely. In some communities, large sections of the downtown area have been razed. In others, the downtown has survived more or less intact.

Local governments often act quickly, seeking to minimize danger, clear sites, and accommodate the wishes of property owners who wish to rebuild. Preservationists, on the other hand, argue that buildings can be stabilized quickly with little threat to public safety. They say that renovation is often cheaper than reconstruction and argue that, in many cases, buildings are not rebuilt quickly. "What you get is vacant lots," says historic preservation consultant Mitch Stone, a former Fillmore planning director. "You don't get new development."

After the Loma Prieta earthquake in 1989, the Legislature passed an emergency bill (SB 3x) prohibiting historic buildings from being demolished after earthquakes unless an "imminent threat" to public health and safety exists or the State Historic Preservation Officer concludes that the building cannot be saved. (Public Resources Code §5028.) In addition, both the Federal Emergency Management Agency and the state Office of Emergency Services have signed a memorandum of understanding with state and federal historic preservation agencies setting up a review process for historic buildings affected by FEMA and OES expenditures after an earthquake.

But most decision-making power still lies in the hands of local governments. Thus, small downtowns have often served as a battleground between local officials and property owners on the one hand and historic preservationists on the other. The most heavily publicized battle came in Santa Cruz during 1990. The city's Pacific Garden Mall was recognized as an historic district on the National Register of Historic Places prior to earthquake in October of 1989. The earthquake damaged the area heavily and several historic structures were razed immediately afterward.

Subsequently, preservationists fought a bitter battle to prevent demolition of the St. George Hotel, a large residential hotel which was regarded as the linchpin of the historic district. (*CP&DR*, May 1990.) The National Trust for Historic Preservation went to court, claiming that under SB 3x there was no compelling need to tear the building down. But almost a year after the earthquake, a local judge concluded that an "imminent threat" did indeed exist, and the building was demolished.

The Ferndale earthquake of 1992 yielded a somewhat different result, with a minimal loss of historic buildings in Eureka and Ferndale. Preservationists attribute their success partly to the fact that the state historic preservation conference was occurring in Eureka at the time of the earthquake and preservationists were on the scene in both cities, giving advice to local officials.

The Fillmore Situation

The preservation-demolition debate was again played out in Fillmore immediately after the January 17 earthquake, especially with regard to the Masonic Temple.

Located in the still-rural Santa Clara Valley, Fillmore (population 13,000) lies halfway between Ventura and Santa Clarita. It remains a modest lemon-packing town, but seems likely to receive growth pressure as more jobs are created in Santa Clarita, a fast-growing suburb of the San Fernando Valley. Many of the city's most significant historic structures were heavily damaged in the earthquake, including the Fillmore Hotel, the Fillmore Theater, Segovia's Market, and the Masonic Temple, all of which date back to the 1910s. The brick Masonic Temple was the only three-story structure in the city.

Prior to the earthquake, Fillmore had made tentative moves toward the possibility of buying the Masonic Temple for use as its city hall. The city had also prepared a downtown specific plan — originally scheduled for adoption on January 20 — that would shift the focus of downtown away from the corner where the Masonic Temple stood and toward a park and tourist railroad one to two blocks away.

On January 25 — eight days after the earthquake — the city announced plans to demolish 14 buildings in the city, including the Masonic Temple. During that week, however, the State Historic Preservation Office and other preservation officials visited Fillmore and advised against quick demolition of the Masonic Temple, the Fillmore Theater, and other buildings. Local response was chilly, with Mayor Linda Brewster telling one reporter that the visit was "an unwelcome surprise."

Having obtained a repair estimate of $2 million, however, Fillmore's Masons continued to favor demolition of their building. City officials also favored quick demolition. "You could see, on a daily basis, the cracks widening and the building tilting toward the street," said City Manager Roy Payne, who also serves as the city's planning director. Payne also said building tenants and other people kept trying to enter the building to retrieve belongings, even though it had been declared unsafe.

On February 3, a hastily formed preservation group called Friends of Fillmore sought a restraining order in Ventura County Superior Court to block demolition of the Masonic Temple, citing both SB 3x and the California Environmental Quality Act. However, Judge Richard Aldrich declined to issue the order, saying the building fell within the "imminent threat" exemption to SB 3x. "The law does not cover this because the building is in danger of collapsing and may be demolished even though it's of historic importance," he said. After a one-day delay because of rain, the Masonic Temple was razed on February 8 , three weeks after the earthquake.

What will become of the Masonic Temple site remains up in the air. The Masons intend to sell the site. City Manager Payne said the city is considering it as a site for a new city hall, which might be funded by the Economic Development Administration. ❑

■ Contacts:
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Mitch Stone, planning consultant, (805) 525-1909.
Jim Hicks, attorney for preservationists, (213) 896-3100.
John Merritt, California Preservation Foundation, (510) 763-0972.

Momentum Grows for Housing Element Reform

Continued from page 1

Currently, local housing elements cannot pass state muster unless they show how the local government will meet numerical goals for production of housing for all income groups. The numerical goals are produced by HCD and the state's councils of governments based on demographic information and other factors. Currently, those standards are based on a definition of housing production as new construction only, and each jurisdiction's "housing allocation" may not be transferred to a neighboring jurisdiction, even when such a move would make sense.

The push toward reform may signal a recognition by government that cities have a wide set of economic, demographic, and land-use circumstances and should not be held to a single standard or methodology. Reform may acknowledge that some cities may indeed have real difficulty in achieving housing goals — because of high land costs or a scarcity of sites — despite the characterizations of some cities as NIMBYs.

The housing element law's preference for form above content in housing elements itself is also under attack. Some cities have plans that are in compliance, but build no residential units; while other cities build units, but are judged by HCD to be out of compliance because a document is faulty.

"It's definitely high time for housing element reform," said Janet McBride, a senior planner in the Association of Bay Area Governments.

"People are obviously frustrated with the current system, especially the subjectivity (on the part of HCD) of whether a plan is in compliance or not," acknowledged Carolyn Baudenhauser, HCD deputy director of legislative affairs.

Housing element reform has been in the works for months. Representatives from both government and industry have been holding powwows in Sacramento, in meetings organized by the California Chapter of the American Planning Association and the League of California Cities. HCD, for its part, has demonstrated its interest in reform by holding a series of meetings with local housing officials across the state. Meetings have already been held in San Diego, Santa Ana, San Jose, Santa Rosa, and San Bernardino, and more are scheduled for March in other locations.

No legislative bill has yet emerged that contains comprehensive reform proposals. A carryover bill, AB 51 (Costa), offers a set of guidelines for transferring credits between jurisdictions. A similar bill, AB 3330, was vetoed by Gov. Pete Wilson in 1992. Another reform bill, AB 1499 (Campbell, died on the floor in January, when the Republican minority blocked voting on it.

AB 1499 would have provided a performance-based standard for housing elements. The law also provided a method for "self-certification" and avoidance of a formal review by HCD by requiring municipalities to build either 75\% of growth allocation or 100% of the regional average in housing production. To self-certify in affordable housing, municipalities would have had to ensure that affordable units represented at least 20% of all new housing opportunities, or else show a net increase in affordable units equal.

One local official, Claire Fletcher, a senior planner in the Orange County Housing Authority, says she thinks the state "really wants to move away from being the housing-element police." She praises HCD officials for creating "an environment for improvement, and trying to listen to localities." Yet she remains suspicious that there is "still some basic attachment to the idea of policing from state on down is the only way of getting the job done."

HCD's local workshops have sometimes been used as forums for angry officials to vent their frustrations at the state's hidebound housing laws and bureaucracies alike. A February meeting in San Jose was "very fragmentary, very split, and very contentious. The cities are pissed off," says ABAG's McBride.

In many cases, local officials are not concerned about the bureaucratic nature of the law but complain that the housing targets they are given from the state and regional agencies are simply too high. Stephen Burke, director of housing and redevelopment for the City of Santa Rosa, said he personally did not see a need for a major overhaul of the housing element la,. He argued that state officials seem oblivious to the high cost of producing housing in newly annexed areas of the city which may be vexed by high infrastructure costs and environmental problems. "Trying to labor under those ambitious numbers has been very difficult," he said.

Flexibility, although a vague concept, seems to be at the heart of housing-element reform. Some cities are "built out" and hence hard-pressed to find new land for home building; other cities have plentiful land but lack money. The definition of housing production itself may be in need of greater flexibility; the narrow definition of new housing only could be expanded to include units that have been rehabbed or market-rate units that have been purchased by the city as affordable housing.

"If the high cost of land is keeping you from having an impact (on your housing numbers), that housing dollar could possibly be used in ways that are not traditional," said Orange County's Fletcher. She offers a hypothetical case of a small apartment investor who needs $50,000 in "gap" financing to buy a small multi-family building; under a new set of rules, the city could use its housing money to assist the investor in completing the purchase, in exchange for several units in the building being set aside for low-income renters.

In addition, the numerical goal itself may be changed. The current goal, which is currently expressed as a single number of units to be built over a five-year period, could be replaced by a two-number system. The first number would represent the city's overall housing goal, based on sites available in land-use plans. The second number would represent the affordable-housing goal, the exact number of which would be pegged to each city's unique set of resources and limitations, such as available land, tax increment set aside and federal entitlements.

Another new idea is "self-certification," which would allow cities to avoid the exhaustive review process by HCD if the goals and compliance are easily measured. Such a process might monitor a particular number of housing units built, rehabbed or purchased within a certain time frame. Many cities also appear receptive to the idea of a program of transferring housing credits among each other. Cities may be somewhat less receptive, however, to the notion of "joint housing elements," in which cities would pool their housing resources with counties or other cities, if some cities fear a loss of autonomy in such alliances.

Particularly popular was a proposal allowing cities to substitute their federal Comprehensive Housing Affordability Strategy (CHAS) document to HCD in lieu of a housing element; the federal documents contain much of the same information as housing elements. Even if the state asks cities to add a land-use inventory to the federal document, "that would still be a lot less work than doing an entirely new submittal, and would greatly reduce their administrative burden," says HCD's Baudenhauser. ❑

■ Contacts:

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Joe Carreras, housing program director, Southern California Association of Governments, (213) 236-1856.

NUMBERS

Stephen Svete

California's Confusing Population Landscape

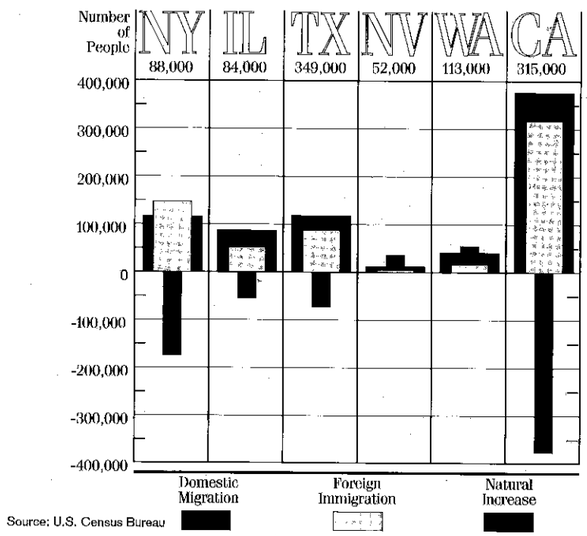
California's growth rate is at its lowest point in 21 years. But the state gained more new people last year than any other state except Texas.

Natural increase (births minus deaths) make up an increasing proportion of the overall growth. Yet births actually declined for the first time last year since 1974.

Net migration slipped to just 67,000 — or 15% of the total growth. But net foreign immigration skyrocketed to 319,000.

Confused? Welcome to the California's population landscape, which is evidently just as volatile as the seismic landscape. Both the state Department of Finance and the U.S. Bureau of the Census released population reports for 1992-93 recently, unleashing a flurry of conflicting and confusing media reports. Both reports make clear, however, that California displays a pattern all its own. In some ways, California mirrors the mature urbanized northeast (strong net domestic out-migration, below-national-average growth rate); in other ways, it is more like the Sunbelt (some of the fastest-growing metro areas and cities in the country are located here).

Population Change in Selected States
1992 to 1993



Source: U.S. Census Bureau

The big headline, of course, was that the state's growth rate had dropped below the national average. The state Department of Finance calculated a growth rate of only 1.4% for 1992-93. (The rate had previously dropped from 2.8% in 1990 to 2.1% in 1992.) But because of the sheer size of the state's base population, the percentage is misleading. At just under 32 million people, California's population is 73% more populous than the next largest state (Texas). So even small percentage increases still mean huge numbers of people.

Despite the slowest numeric growth since 1979, California still managed to add a population in one year nearly equal to the entire population of Wyoming: 442,000 people. (The state's growth figure for California is apparently higher than the Census Bureau's figure because the state includes an assumed 100,000 illegal immigrants per year. By the Census Bureau's calculation, the state added about 315,000 people.) And such cities as Bakersfield and Moreno Valley continued to rank among the fastest-growing in the nation.

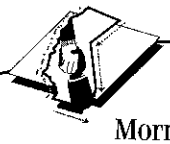
It's important to point out, however, that the population trends that first came into focus last year remained intact in 1992-93. There is no doubt that the recession is slowing the rate of population growth; California added only half as many people in 1992 as in 1990. Natural increase continues to account for a growing proportion of the total change number — a big shift for a state so historically dependent on immigration.

And perhaps most important, net migration into California is on the wane.

This is where the population statistics get really confusing. The outbound domestic migration has jumped to more than a quarter-million people. This means that 252,000 MORE people moved from California to other states than the other way around. But not everyone was leaving; in fact, lots of people were coming. In the highest figure in over 20 years, 319,000 foreigners moved into the state during 1992-93. So even though the migration component of change is low, it masks an increasingly mobile — and international — overall population.

In this regard, California is more like New York and Illinois than Colorado or Arizona. In those places too, U.S.-born citizens are leaving in large numbers and are largely being replaced by international immigrants. This may not be a Rust Belt characteristic so much as it is a characteristic of large, maturing metropolitan areas. New Yorkers, Chicagoans, and Angelenos appear to be leading the exodus to fast-growing states in the South and West. But they're being replaced — in all the big cities — by immigrants from Mexico, El Salvador, and Korea.

So even as its growth rate slows, California's population dynamism continue to play a key role in trends elsewhere. After all, Nevada had the fastest growth rate of any state in the country last year. And it's likely that an awful lot of those people arrived from Nevada's mammoth neighbor to the west. ❑



DEALS

Morris Newman

A New Kind of Environmentalism

Maybe it's time we retired the word "environmentalism." For starters, it's become a code word for a wide variety of agendas. Some environmentalists are romantics who indulge in nature mysticism and look at urbanism the way the teetotalers regard drunks. For others, environmentalism is an intensely local world view whose only imperative is to say no to all projects, regardless of merit. But a third group of environmentalists takes a broader view of global sustenance, and attempt to balance the needs of a growing population with those of a vulnerable countryside.

Increasingly, the Bay Area's Greenbelt Alliance is falling into this last category. Greenbelt is perhaps best-known for battling development projects on the urban fringe, often forming alliances with blatant NIMBYs in the process. Greenbelt has been especially active in the South Bay, where it has opposed everything from a 1,000-unit "village" in Milpitas to a proposed resort development at the Gilroy Hot Spring near Henry Coe State Park.

Greenbelt, however, is also willing to put the shoe on the other foot and support infill development in existing urban areas. Backing infill development is a gutsy move that sometimes costs Greenbelt would-be supporters. "Some people have the very narrow view that any open space is a good thing. That's not necessarily the case," says Vicki Moore, South Bay field director of Greenbelt Alliance. Some people who attempted to enlist the support of the Alliance for strictly anti-growth views, "tend to be very surprised and disappointed that we would take the opposite tact," she added.

> *"Environmentalism has the greatest chance of success when it transcends the realm of single issue politics."*

The exercise of updating the City of San Jose's general plan is an instructive case history of the new marriage of urbanism and environmentalism. San Jose presented a unusual opportunity for a different approach. Aggressive annexation and leapfrog development in the 1950s and '60s had left the city large a large number of "clean" infill sites, which had been passed over in the initial expansion and had never been built on. The potential for an infill strategy is considerable.

Last year, as part of a public task force, Greenbelt promoted the concept of "intensification corridors," and infill development, as well as keeping development out of the city's existing urban reserve areas in Coyote Valley and South Almaden, south of the city. (Mike Flores, San Jose senior planner, says city staff supported both intensification of existing areas and protection of the urban reserves prior to Greenbelt's involvement, although he acknowledged the city had considered opening South Almaden to housing development.)

Under the plan promoted by Greenbelt, Coyote Valley and South Almaden would not be opened up unless developers satisfied some rigid "trigger mechanisms," such as proof that new projects would not incur any new costs to the city. In addition, any new projects in the urban reserves could only be approved by amending the general plan, not by a quick-and-dirty zone change. A further roadblock to builders would be a requirement to demonstrate that any new housing in the Coyote Valley would be near to existing jobs. "It's silly to put in all this housing, just to clog up the freeways so people can get to work," says Greenbelt's Moore.

When one councilman urged the opening of the South Almaden urban reserve to home building, Greenbelt Alliance launched what Moore described as a "major campaign" to block the efforts of a local councilman to open up housing development in South Almaden. The councilman sought to sway his colleagues on the city council by playing "the county card" — arguing that if the city did not permit development in South Almaden, the county would. (Although South Almaden is in San Jose's sphere of influence, it remains county territory.)

To head off development efforts in South Almaden, Greenbelt organized a grass-roots letter-writing campaign in the councilmanic district, contacted the local media, and lobbied the other councilmembers.

Greenbelt's campaign succeeded in stemming support for South Almaden development, though the organization failed to interest the council in supporting a formal agreement between the city and the county to preserve the property.

In the end, however, a fiscal argument, seemed to sway the politicians. The cost of new infrastructure to support housing in the city's urban reserves would have driven developer fees up to about $35,000 to $38,000 a unit, as opposed to about an average $15,000 a unit in the existing urbanized areas. With those kinds of numbers, Moore and others were able to convince city officials that fringe housing "just doesn't pencil out." The council accepted a general plan that calls for construction of 52,000 new houses over the next 20 years — remarkably, all of it in infill areas.

For the moment, the San Jose plan remains in limbo. The city rescinded the plan in January, in part due to a challenge to the environmental impact report. (Ironically, local school districts are concerned about their ability to absorb the students from increased development in the city's urban areas.) (*CP&DR*, February 1994). Yet the infill strategy appears likely to survive.

The most notable lesson of San Jose's General Plan process has been that environmentalists can take an approach to planning that is "pro-active" (another word that should be retired) as opposed to "reactive." It also suggests that environmentalists can achieve their ends through consensus-building, rather than being either Monkey Wrench Gangs or litigious die-hards. More than anything, the San Jose experience suggests that environmentalism has the greatest chance of success when it transcends the realm of single-issue politics. "Think globally, act locally," is one slogan that makes sense to us. Until we can scrap the term of "environmentalist," San Jose should be thankful it has some people who at least are worthy of the name. ❑