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Banning Ranch Conservancy Wins California Supreme Court Lawsuit Against City of Newport Beach

Newport Beach, California—The Banning Ranch Conservancy, a local non-profit organization dedicated to preserving Banning Ranch as permanent public open space, won its lawsuit in a unanimous decision of the California Supreme Court. The suit challenged the Newport Beach City Council’s approval of its Environmental Impact Report (EIR) and its approval of the Newport Banning Ranch project.

In July, 2012, the City Council approved the project proposed by developer Newport Banning Ranch LLC consisting of 1375 residences, a 75-room resort hotel and 75,000 square feet of commercial retail space.

The Conservancy’s lawsuit claimed the City violated the California Environmental Quality Act (CEQA) and the Supreme Court unanimously upheld this claim and declared that the Conservancy is entitled to relief on its CEQA claim. The suit also claimed the City had violated its own General Plan, a decision upheld by the Orange County Superior Court, which found: “...the Project itself, as approved, is inconsistent with the General Plan ... in that the City failed to coordinate and work with the [California] Coastal Commission in identifying which wetlands and habitats present in Banning Ranch would be preserved, restored or developed, prior to its approval of the Project.”

The high court stated its opinion as follows:

“In this court, the parties have briefed and argued both the general plan and CEQA questions. The CEQA dispute centers on whether an EIR must identify areas that might qualify as environmentally sensitive habitat areas (ESHA) under the California Coastal Act of 1976 (Coastal Act; § 30000 et seq.), and account for those areas in its analysis of project alternatives and mitigation measures. We hold that CEQA so requires. The City’s EIR is inadequate because it omitted any consideration of potential ESHA on the project site, as well as ESHA that were already identified. Because BRC is entitled to relief on its CEQA claims, we need not address the general plan issues.”

<http://www.courts.ca.gov/opinions-slip.htm>

Steve Ray, Executive Director of the Conservancy said: “We never wanted to litigate, but the City must comply with the law. The City Council’s approval of the EIR and the project was contrary to the will of the citizens of Newport Beach.”

In 2006, voters approved a ballot initiative as an amendment to the Newport Beach General Plan designating that the priority for Banning Ranch is that it remain as permanent open space and

that it be used as a public park. Says Ray, “At 401 acres, it would result in a substantial park for residents. The Conservancy has established major avenues of fundraising to purchase Banning Ranch at fair market value from the developers and to create a park and coastal nature preserve, just as the citizens want.”

John McClendon of Liebold, McClendon & Mann (Laguna Hills) served as lead litigator on behalf of the Conservancy throughout every iteration of the lawsuit, winning at the Orange County Superior Court and now at the California Supreme Court.

Banning Ranch Conservancy is a 501(c)(3) non-profit organization whose mission is to preserve, acquire, conserve and manage the entire Banning Ranch as permanent public open space, park and coastal nature preserve.

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*For more than 20 years, the **Banning Ranch Conservancy**'s mission has been to preserve, acquire, conserve and manage the entire Banning Ranch as permanent public open space, park and coastal nature preserve.*