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September 14, 2020

County May Abandon Public Easement Rights to Prevent Unauthorized Use of Road

The Third Appellate District determined that Placer County met relevant statutory requirements when it partially abandoned public easement rights in a road originally intended to be used only for emergency access and public



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Placer County adopted the Martis Valley Community Plan, which provided that a road connecting Martis Camp and the Retreat would be restricted to public transit and emergency access only. The EIRs for the Martis Camp and Retreat developments, approved two years later, also envisioned that the road would be restricted to these uses. Despite these restrictions, several years after the road was constructed, Martis Camp residents began using it as a short cut through the Retreat community to Northstar village. By 2014, from 100 to 250 private vehicles were using the road on a daily basis, and it was estimated that once Martis Camp was built out, traffic could triple. After various efforts to stop the unauthorized use of the road failed, Retreat property owners requested that the County abandon public road easement rights in the road. Following a series of public hearings, the Board of Supervisors approved a partial abandonment, thereby restricting use of the road to Retreat property owners and emergency and public transit vehicles only, consistent with the uses described and analyzed in the Community Plan and the EIRs for the two developments. The Martis Camp homeowners' association and some individual property owners (the "Martis Camp homeowners") filed suit to challenge the County's action, claiming it violated the statutory requirements for abandonment of a public road; that it impaired their abutter's

rights to access the road giving rise to an inverse condemnation claim; and that the Board had violated both the Brown Act and CEQA when it approved the abandonment. The trial court ruled for the County on each of these claims and the Martis Camp homeowners appealed. **The Court of Appeal's Decision Abandonment of a Public Road.** The court of appeal rejected the Martis Camp homeowners' claim that the County's decision violated the statutory requirements for the abandonment of a public road, explaining that under the Streets and Highways Code, a county is authorized to vacate all or part of a street, highway, or public service easement where it makes two findings -- first, that the road is unnecessary for present or prospective public use, and second, that the abandonment is in the public interest. On the first question, the court found that, regardless of the fact that the road was used extensively as a convenient (albeit unauthorized) short cut, the Board properly found the road was not necessary for public use based on evidence that the road was never intended to be part of the public transportation network for the area and that the road was neither designed nor approved to accommodate or support such use. The court also rejected the homeowners' assertion that the County's reservation of public transit, emergency and utility easements, along with a private access easement for Retreat property owners, demonstrated the road was "necessary" for public use. Observing that the abandonment statutes specifically authorize the abandonment of "all or part of" any street, the court concluded the County's decision to relinquish the public's right to use the road for general vehicular traffic, while at the same time reserving the public's right to use the road for public transit and emergency access purposes along with the access rights of Retreat property owners, was reasonable and consistent with the statutes. As to the second question, the court explained that the Board made specific evidence-based findings showing how partial abandonment would serve the public interest, including that it would (1) ensure the existing road network matched what was analyzed and presented in planning documents; (2) ensure the road was used in accordance with the standards to which it was designed; (3) relieve the County of the burden of road and drainage maintenance; (4) improve traffic circulation in the area; and (5) protect the County's investments in, and the integrity of, the area traffic management system. **Inverse Condemnation Claim.** The Martis Camp homeowners claimed that by approving the abandonment, the County impaired their abutter's rights to access the road, thereby reducing the market value of their properties and resulting in a compensable inverse condemnation claim. While the homeowners conceded that none of the Martis Camp homesites actually abut the road, they argued they nonetheless had abutter's rights because they had been granted a non-exclusive easement for ingress and egress over all of the subdivision's streets. The court disagreed, holding that non-abutting owners do not have a right to damages merely because access to a conveniently located road is denied, and further noted that the road abandonment neither deprived homeowners of their easement over the Martis Camp subdivision streets, nor did it render their homesites inaccessible. **Brown Act Compliance.** The court also rejected the Martis Camp homeowners' claim that, by overruling prior enforcement decisions made by the County's community development resource agency director (which concluded Martis Camp residents had the right to use the road), the Board changed the conditions of approval for the Martis Camp project, and this change constituted a "distinct item of business" requiring public notice under the Brown Act which the County had failed to provide. The court concluded, however, that the CDRA director's determination was incorrect, and, in fact, the conditions of approval did not contemplate use of the road by Martis Camp residents, but rather always limited the road to public transit and emergency access uses. Accordingly, the Board's action did not amount to a change in the conditions of approval, but rather was consistent with them. **CEQA Compliance.** The court did agree with one of the Martis Camp homeowners' claims: that the Board had violated CEQA when it adopted an addendum finding that the abandonment could be approved without further CEQA review. The addendum concluded the partial road abandonment would not result in new environmental impacts because it would simply restore the traffic patterns assumed in the Martis Camp EIR. The court held, however, that the road was a component of the Retreat project, not the Martis Camp project, so the County should have instead looked to the Retreat EIR to determine whether further CEQA review was necessary. The court accordingly reversed the trial court judgment on the CEQA claims, and directed that the trial court issue an appropriate writ of mandate describing the action the County must take to remedy its failure to comply with CEQA.