

# AIRPORTS Airport group hits end of legal runway

2-7-86

By JOAN RAYMOND

Sentinel Staff Writer

SANTA CRUZ — After a die-hard court battle, the Santa Cruz Memorial Airport Association today hit the end of a legal runway in Superior Court.

Superior Court Judge William Kelsay sided against the aviation group in a trust case filed against the City of Santa Cruz.

The Association maintained the city was bound by an airport trust agreement reaching back to the 1940s and involving property owners and business leaders who had sold land on the city's westside to the city for the purposes of an airport.

The airport was never developed on those properties, but on a site in Scotts Valley. The airport — called Sky Park — was closed in 1982 by the City Council.

The Association maintained the city had the legal duty under the terms of a trust agreement to either

open another airport to replace Sky Park or to pay the property owners a fair return on their original investment.

During a brief hearing this morning, Judge Kelsay ruled there was no trust and the city had no authority to make a trust. The city's Charter prohibits such a trust agreement and trust-case law shows there was no trust, the judge said.

The judge said each side would pay its own legal fees.

Judge Kelsay noted the properties had been sold, not donated to the city, and that the property owners involved had made a profit on the sale of their lands to the city.

The city had bought the land for the public good, and any funds generated from the properties are public funds, Kelsay ruled.

Representing the city was City Attorney Rod Atchison. The Association was represented by Gary Near of San Francisco.

During today's hearing, the judge commented on the lawyers' performances. He called Atchison a "fine lawyer" and Near, "an entertaining, enthusiastic advocate."

During a tedious three-day trial in December, Near called witnesses to testify that included oldtime civic leaders: Sentinel former publisher, Fred McPherson Jr. — one of the

original property owners, former City Councilmen Ted Foster and Bert Snyder and former Chamber of Commerce President Ernest Dillon.

The judge was patient with listening to the testimony, but told Near much of the testimony was irrelevant and that the case was really a "documents case" — one that did not require witness testimony.