

# Watsonville gets another shot at annexation lawsuit

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WATSONVILLE — A re-hearing by the state Court of Appeal has been granted to the city of Watsonville and property owner Tony Franich in

the lawsuit filed against them by the Resource Defense Fund.

"It's very rare to get a rehearing," said attorney Tim Morgan, who represents Franich. "In fact, I've never heard of one."

Jan. 27, the appellate court unanimously overturned Watsonville's 1981 annexation of 72 acres of agricultural land off East Lake Avenue that Franich had hoped to convert into a residential development.

Morgan and City Attorney Don Haile filed motions for a rehearing and were preparing to file appeals with the state Supreme Court when the notice of a rehearing before the Court of Appeals was received

Thursday.

Morgan said he could only speculate on why the petition was granted. "They could have granted it simply to make a minor modification in the opinion, or they could want to take

another look at the LAFCO (Local Agency Formation Commission) issue."

Morgan said in his rehearing request he had asked the court to look at a 1986 case, Lindborg/Dahl Investments Inc. vs. city of Garden Grove, which he argued bolstered his position that the LAFCO commissioners' discussion on the annexation was the equivalent of "legal findings."

In their opinion to overturn the annexation, the appellate court justices had faulted then-Superior Court Judge Harry Brauer for ruling that a discussion by a commission was the same as "findings."

"I asked them to take a good, hard look at that case," said Morgan. "I think it has a direct bearing on this one."

Even if the higher court upholds Morgan's point, the city lost on another issue — that the City Council had not considered a partial annexation of the property. Morgan said the court could want to look at that issue, although without further word from the appellate court it's hard to say what issue it wants to explore.

The action by the appellate court puts on hold any appeals, he said. Meanwhile, Morgan said he doesn't know yet whether the court will revise its January decision or want to schedule a rehearing for oral arguments.

"There isn't a speedy resolution in sight," said Morgan.