



Dan Coyro/Sentinel

The domed Viviano home on San Andreas Road is the center of controversy.

# County sues owner of domed home

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## Action fuels La Selva controversy

**SANTA CRUZ** — The county has filed suit against the owner of the controversial domed mansion of San Andreas Road.

The lawsuit, filed in Superior Court, invokes a state law that could provide the county a fine of several hundred thousand dollars. It also further complicates an already festering problem that has been perplexing county supervisors for months — namely, whether to order the mansion's third story and dome torn off or to allow owner Peter Viviano to keep the huge, 13,000-square-foot home essentially as is, despite Viviano's apparent skirting

of county building regulations.

According to one county supervisor, the county has put itself in a position to possibly order the third story and dome removed, plus collect a substantial fine.

Viviano has filed his own lawsuit, against the county, which asserts the county has no right to order him to make changes in the structure.

But, according to Viviano's lawyer, that lawsuit had been put on the back burner awaiting the board's ultimate decision on what to do about the house, along San Andreas

Road and Manresa Beach. It sits on a terrace for almost all the world to see alongside two similarly expansive homes, one of which is owned by a relative of Viviano's.

Viviano's lawyer, Doug Marshall, said he was surprised over the county lawsuit, which, he said, came after the Viviano lawsuit "had been put on hold" after discussions with county officials and in hopes of a board decision on the matter.

But at last Tuesday's board meeting, before a packed house — most of whom supported leaving the Viviano

mansion untouched — the supervisors postponed their decision until Jan. 26, ostensibly awaiting an opinion by County Counsel Dwight Herr on the Viviano lawsuit.

But Herr had already filed suit on the previous Monday against Viviano, who lives in Campbell. Herr said he never made any "promises" to Marshall about waiting until the board decided what to do before trying to impose sanctions on Viviano.

The county's lawsuit is based on the state Coastal Act, said Herr, which provides severe financial penalties if a builder in the coastal area is found to *intentionally* have built without proper permits.

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## Domed home

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It is that very issue that has swirled about the Viviano case.

The builders apparently added an illegal third story and more than doubled the size of the home from the size provided for in the building permit — in between inspections by the county Building Department.

In September 1985, after building inspectors were alerted to the escalation in size of the home by the office of Aptos Supervisor Robley Levy, they red-tagged the structure, effectively halting construction and setting up the controversy that still continues.

Marshall said Monday that the builders — Eitzen Construction of Los Gatos — had called for building

inspections and did not try to hide the size or scope of the structure from inspectors.

"They did not lie or deceive anyone — they just did what they did," said Marshall.

He said that if the Building Department had conducted "prudent inspections," it should have been "clear" what size home was being built.

But former chief inspector Lou Bacigalupi, who retired Dec. 31, wrote to the County Planning Department in September that the reason inspectors had failed to notice the changes in the Viviano home was that the builders had failed to call for a framing inspection of the structure.

At last Tuesday's meeting, the board also asked for further information on the role of the county Building Department in the Viviano matter and about whether the builders have continued to work on the home since it was red-tagged.

The section of the Coastal Act invoked by the county provides for an initial fine of \$10,000, plus additional fines of \$5,000 for each day work was done on the structure in violation of building regulations. Since even Viviano's attorney says that in early 1985 the home was larger than the county now says was permissible, the latter fine, if assessed, could be in the hundreds of thousands of dollars.