

Judge Refuses Ban On Land Division

By PAUL BEATTY
Sentinel Staff Writer

Superior Court Judge Harry Brauer today set July 1 as the deadline for implementation of Measure J — the growth control initiative — but held back from ordering a ban on land divisions in rural areas.

Environmentalists asked Brauer to prevent the county from further divisions of rural land until ordinances enacting Measure J, approved by the voters in June, were passed.

The judge said an injunction against rural lot-splits would be far beyond the final relief" of

Measure J. The same principle applied to another request by environmentalists that the county cease from issuing all building permits.

Brauer also told Assistant County Counsel Terry Slocum that he wants a "progress report" on April 12 as to what the county is doing to "discourage rural land division" as mandated by the growth control measure.

Brauer and attorneys on both sides debated the court's power in ordering a legislative branch to enact law. Slocum argued at one point that the court had no power in the Measure J issue.

Brauer answered, "I'm well aware of the court's power." And while stating that he would not be "a super supervisor," he informed the attorney that courts have the power to order subordinate legislative bodies to comply with the law.

Brauer said that the decisions of the county board of supervisors as late as Tuesday showed the board was acting in "good faith," specifically in the areas of limiting permits in order to control population and provide low cost housing.

Attorney Mitchell Page told the court that his clients, the
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Newton Lied, Says Prosecutor

OAKLAND (AP) — Saying "when a play is cast in hell you can't expect to have angels for actors," prosecuting attorney

Judge Won't Ban Rural Lot Splits

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Resource Defense Fund, which includes former Planning Commissioner Mary Hammer, would not strongly pursue their request for an injunction on building permits. He added, however, that his clients were not enthralled with the board's decisions.

Brauer said that the restriction to 930 permits in 1979 was a 25 percent cut from previous years' issuances. Such a cut "was certainly in the spirit of Measure J" and showed good faith.

Page said the overriding concern now was that rural land divisions were still continuing and had not been controlled by an ordinance to enact the mandates of Measure J.

Slocum told the court that supervisors Tuesday had adopted "as policy, not just a guideline" the rural land division matrix (a point system) that does control rural land divisions.

Page brought out that a major holdup in the implementa-

tion was a board decision to have an environmental impact report done on Measure J and that the report was unnecessary.

Brauer indicated his agreement, stating he did not understand the need for an EIR for something that "was meant to have a positive effect on the environment."

Slocum countered that the positive effect might not be felt by the residents of rural areas where most of the future growth is to occur.

Slocum insisted the case was brought to court "because the plaintiffs just don't trust the board of supervisors."

Brauer answered, "You can accept that as taken."

Following the decision, Slocum said he was pleased and county planning staff members indicated they expected no trouble in meeting the July 1 deadline.

Hammer said she was disappointed and that the decision left the rural areas still lacking protection.

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