

# Judge's <sup>16.5-86</sup> ruling favors Group W

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**SANTA CRUZ** — The city and county of Santa Cruz have apparently lost the first round in what's expected to be a prolonged court fight with Group W over the area's lucrative cable TV franchises.

U.S. District Court Judge William Schwarzer has announced that he intends to permanently bar the City Council and Board of Supervisors from ordering Group W to cease its cable operations here.

The judge announced his ruling at a hearing in San Francisco Friday.

William Martecorena, a Southern California attorney who is representing the city and county in their legal wars with the cable firm, said late Friday afternoon that Schwarzer's decision will almost certainly be challenged in the Ninth Circuit Court of Appeals.

"We're going to have to see exactly what he (Schwarzer) does," said Martecorena, who said the exact wording of judge's ruling won't be

known until mid-November.

"With an issue of this importance, and with the stakes as they are, anything he does will go to the Ninth Circuit," he said, adding, "I didn't think it would go this fast."

Group W's twin city-county cable franchises expired July 1. Two weeks ago, supervisors and City Council members tentatively decided to award a new, exclusive franchise to a partnership of private investors — Greater Santa Cruz Cable TV Associates. GSC was one of

three groups that had bid against Group W for the right to serve an estimated 50,000 local cable customers.

Group W attorneys had asked Schwarzer to temporarily bar the city and county from forcing the firm out of business, in the face of the new franchise award.

It was anticipated that the judge would hear arguments from both sides before deciding, finally,

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whether Group W could continue to run its cable system here without the consent of the city and county.

Instead, Schwarzer announced Friday that it was his intention to issue a final ruling — in Group W's favor — without any more delays.

If upheld, Schwarzer's intended ruling could effectively prevent GSC from ever commencing operations.

According to county and city officials, the local cable market isn't big enough for more than one cable firm. The area cannot accommodate the additional utility poles and trenches that would be needed for a second system, and there aren't enough customers here to support

two competing firms, they say.

Cable TV is a potentially lucrative business here because there is virtually no over-the-air competition. The Santa Cruz Mountains prevent most TV viewers from directly receiving more than three channels clearly. An exclusive franchise to serve the city's and county's captive cable markets is thus an almost sure-fire guarantee of financing.

But consultants for the city and county have indicated that it's unlikely that another cable operator would be able to secure financing if it had to share the market with Group W.

Under the terms of its proposed 20-year contract, which is up for final approval by the City Council

and Board of Supervisors this month, GSC would not actually have to begin constructing and operating a cable system until Group W is out of the picture.

GSC has pledged to repay the city and county some \$400,000 in expenses incurred by the two governments during the protracted, two-year cable-franchise bidding process, however, and once the council and board take final action on the franchise award, the partnership will be required to make a first-installment payment of \$250,000.

GSC has also pledged to bear the full cost of the court fight with Group W — a fight that's only just begun.