CAPITOLA
WHARF

Both sides unsatisfied with wharf-fee ruling

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Both sides in a dispute over Capitola's purchase of the Capitola Wharf concession lease consider a judge's decision yesterday a limited victory.

Santa Cruz County Superior Court Judge Chris Cottle ordered Capitola to pay court costs that former Councilman Dennis Beltram incurred in his suit against the city over its plans to buy back the lease.

Beltram and co-plaintiff Shirley Pereira filed suit in December to block the city's purchase of the wharf lease for $290,000 from Old Capitola Wharf Inc., headed by Capitola Planning Commissioner Rick Karleen.

The suit was dropped on March 16, the day it was set to go to trial, after Karleen paid $48,000 in back rent and interest. Escrow on the city's purchase of the lease closed last week.

Cottle yesterday denied Beltram's request for attorney's fees because Beltram, a lawyer, brought the suit himself. However, he did award $8,314 in fees to three other attorneys who worked on the suit.

Beltram said he was not surprised by the judge's decision. Cottle had indicated Friday at a hearing on the fees that he was sympathetic toward arguments that lawyers should not collect fees on public-interest suits they file themselves.

Cottle also refused to release a $25,000 bond that Beltram was ordered to post when he won an injunction to temporarily block the lease-purchase deal. Money for the bond was provided by anonymous donors.

Despite Cottle's failure to release the bond, Beltram said he was confident it would eventually be "exonerated" and paid back to the contributors.

However, Capitola City Attorney Richard Manning said he would request at least a portion of the bond money to cover losses the city suffered as a result of Beltram's suit. He estimated court costs at upwards of $10,000 and lost concession revenues at up to $12,000.

He won't be able to calculate the city's total losses, Manning said, until new concessionaires are operating on the wharf. He anticipated that could take up to two months.

"I'll add up every single thing I think the city is entitled to and make a pitch for that amount," he said.

An award to the city would be ironic, he said.

"The attorneys got paid," Manning said, "and the people that put up the bond money are going to foot the bill."

But Beltram said he believed Cottle's decision amounted to declaring him and co-plaintiff Pereira the winners.

"How can we be the winner and have to pay anything to the losers?" he asked.

City officials cannot prove his suit did Capitola any harm, he said, because they were the ones in the wrong.

"They're defensive to the point where they'll say or do anything to try to justify their actions," Beltram said.

Manning said he disagreed with Cottle's decision ordering the city to pay court costs, but said he was happy the bond was not exonerated.