

Measure J upheld by local court

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SANTA CRUZ — Superior Court Judge Chris Cottle Monday announced he will not set aside the county's growth-management ordinance, as demanded by the Santa Cruz County Builders Exchange.

The Exchange had charged that the county had unfairly restricted the supply of low- and moderate-income housing here and had fallen short of its overall housing goals because of the ordinance's restrictions on residential construction.

Cottle, who last week sat through four days of testimony on a suit filed against the county by the Exchange, said the group's attorney had failed to prove those allegations.

Cottle announced his intention to rule against the Exchange in a letter to County Counsel Dwight Herr, Lee Roy Pierce Jr. — a Pacific Legal Foundation attorney who represented the Exchange — and Celia Scott Von der Muhll, who entered the case as a friend of the court, representing the Resource Defense Fund.

Supervisors must set annual limits on residential growth under Measure J, which was approved overwhelmingly by voters in 1978.

Since 1979, the board has sought to control growth in the county's unincorporated areas by limiting the supply of residential building permits. In keeping with another requirement of Measure J, supervisors have also required developers of projects involving five or more units to reserve at least 15 percent of all new housing for renters and buyers of modest means.

The Builders Exchange sued the county after supervisors set a 1.5-percent limit on residential growth for 1986. The Exchange charged that the growth limit was too restrictive and said it discriminated against poor people in general and minorities in particular.

In its suit, the Exchange asked the court to set the 1.5-percent cap on residential construction aside.

The suit was filed in behalf of Wilma Campbell, who was identified by the Exchange as a black, low-income Santa Cruz resident.

The Builders Exchange has regularly protested Measure J residential growth limits since the board began setting them in 1979.

In 1979, 1980 and 1981, the board capped residential growth at 2.2 percent, 2.4 percent and 2.1 percent, respectively.

In 1982, 1983 and 1984, supervisors

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set the growth limit at 2 percent.

For the last two years, the growth limit has been set by the board at 1.5 percent.

Despite these successive limits on residential construction, the county's population has continued to grow at an average annual rate of 3 percent since 1979.

Noting that population growth has been accompanied by a steady increase in average household size, county planners have recommended that supervisors tighten residential growth limits still more, to 1 percent, for 1987.

Tighter limits would have no immediate practical effect, however. Over the years, builders have consistently claimed fewer building permits than allotted by the board. The unclaimed permits have been carried over from year to year and the county has built up a surplus of nearly 1,000 residential construction permits.

The surplus was cited by Cottle as evidence that the county's Measure J growth controls had not unduly restricted the supply of housing in the county's unincorporated areas.

Cottle said that the county had demonstrated that it "has a number of effective, progressive programs designed to promote low- and moderate-income housing and that general economic factors such as interest rates (had) played a significant role in limiting such housing production."

He said the claim that the county's housing goals were not being met under Measure J "would be true if there were no carry-over permits, particularly with regard to low- and moderate-income housing.

"But," he said, "the evidence shows that these surplus permits allow for housing production which

is far in excess of the 1.5-percent growth rate and sufficient to meet fair-share (housing) requirements."

The county's "fair-share" housing goals are set for it by the Association of Monterey Bay Area Governments (AMBAG).

During the trial, Pierce argued that the housing element of the county's General Plan was invalid because it contained false figures indicating that AMBAG's 10-year housing goal for the county was being met.

If the housing element was invalid, Pierce contended, then the General Plan was invalid, and so was Measure J.

Cottle said, however, that "on its face, the housing element more than satisfies legal requirements."

Acknowledging that housing goals in the document were "based on some incorrect numbers," the judge said the county had offered a "reasonable explanation for the errors."

Cottle said he was "reluctant to substitute (his) judgment for the judgment of those involved in the planning process, including the Board of Supervisors."

Noting that the housing element was being re-evaluated, Cottle said, "any deficiencies can be corrected to satisfy state requirements."

Supervisors took a step toward addressing the housing element's deficiencies last week when they voted unanimously to cut the number of residential units the county must build between now and 1990 in order to meet its AMBAG housing goals.

The board voted to slash the county's housing goal by more than 78 percent.

County planners said the move was justified because household size has been increasing here.