

Watsonville annexation overturned

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SAN FRANCISCO — A state Court of Appeal Tuesday unanimously overturned Watsonville's 1981 annexation of 72 acres of agricultural land.

In a 19-page decision, the First District Court of Appeal rejected the decision of the City Council and the Local Agency Formation Commission to annex property on East Lake Avenue belonging to Watsonville attorney Tony Franich.

The lawsuit was filed in 1982 by the Resource Defense Fund, a small but environmentally active group headed by Boulder Creek resident Mary Hammer. The group raised numerous issues in objecting to the annexation of the once-productive apple orchard property.

Attorney Tom Brown, for the RDF, said he was "very happy" with the decision. "It's clear it was a hands-down victory," he said.

"The bottom line here is that both the city and LAFCO did not pay adequate attention to the environmental issues," said Brown.

In its ruling, the appellate court found the City Council and LAFCO hadn't explored the possibility of a "partial annexation" of the property. Because no findings were made for that alternative, the environmental review process was flawed, the court ruled.

"As we will explain, we conclude the judgment must be reversed because both the LAFCO and the City Council failed to make necessary findings to explain why the alternative of partial annexation was rejected," wrote Justice Peter J. Racanelli for the court.

If the council and LAFCO had considered partial annexation, it would have served as a "perfect compromise," Brown said. "First it would have kept

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development out of the floodplain, it would have provided the developer with a means of getting economic return on his property, and it would have provided a solid buffer with agricultural lands adjacent to the property."

The appellate court ordered the lower court to issue a writ of mandate ordering LAFCO and the City Council to set aside the annexation.

But the court's decision could effectively kill the city's chances of ever annexing the property and may jeopardize the application of another developer, William Burgstrom, who wants to annex about 20 acres of agricultural land near East Lake Avenue.

"It's definitely a different set of commissioners (on LAFCO) than decided it before," said LAFCO executive director Pat McCormick. Although named as a defendant, LAFCO had chosen not to defend its position in the appellate court.

Since the Franich property was annexed, LAFCO has adopted a policy against approving any annexations if other land exists within a city's boundary for the same purposes. The city now has enough available residentially zoned property to see development through the early 1990s.

Franich had wanted to turn his apple orchard into a residential development.

City Attorney Don Haile, who was convinced the city had considered all options in its original decision, said he would ask the City Council for

authorization to appeal to the state Supreme Court. He also said, "I think they were really nit-picking on the question of partial annexation. Of necessity, you're considering the lesser when considering the whole."

In 1984, then-Superior Court Judge Harry Brauer ruled against the Resource Defense Fund, but agreed with one point it had raised: that the City Council should have made findings when rejecting the alternative of partial annexation.

Before upholding the annexation, Brauer ordered the council to review that issue.

In its decision, the appellate court faulted Brauer's so-called "interlocutory remand," which sent the issue back to the city council for findings.

"Plaintiffs challenge the unusual procedure employed by the trial court in permitting the City Council to reassume administrative role in order to correct its error and thereby effectively deny plaintiffs a favorable judgment on the merits shown. We conclude the interlocutory remand was improper," said Justice Racanelli.

"What the court is saying is that the environmental decision is central to CEQA, (California Environmental Quality Act) and the way it's central is through the findings process," Brown said.

Although the appellate court agreed with the Resource Defense Fund on the issues of findings, the appellate court rejected numerous other points raised by the Resource Defense Fund.