

Court Orders Final Map Approval

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Approval of a final map for a subdivision is administrative and ministerial and not discretionary for a governing body, according to a recent decision of a Second District Appellate Court in Los Angeles. The decision was filed March 29, 1973.

The case arose when the City Council of Los Angeles disapproved a final map for a subdivision after approving the tentative map almost eighteen months earlier. The developer, Great Western Savings & Loan Association, filed a petition for writ of mandate in superior court contending that the city council possessed no discretionary right permitting that body to disapprove the final map.

The city contended, on the other hand, that it is within the sole discretion of a local governing body to approve or disapprove a final subdivision tract map. The issue, as the court saw it, was: "Do the courts of this state have the jurisdiction to mandate the Los Angeles City Council under the facts of this case to

approve the subject final subdivision tract map or is the ultimate determination thereon a matter solely within the discretion of the governing body."

In ruling for Great Western, the court held that the developer had not failed to comply with any condition imposed by the City Council "and therefore the developer was entitled under the law to have the final map approved and accepted for recordation." The court ordered the city to approve the final map and to accept it for recordation.

The City of Los Angeles appealed the decision, contending, among other things, that the Superior Court had no jurisdiction to review or interfere with the action of the City Council in disapproving the final tract map. The Appeal Court, however, found in this case that the function of the City Council was "administrative and ministerial." It said: "Where a statute or ordinance clearly defines the specific duties or course of conduct that a governing body must take, that course of conduct be-

(continued from page 8)

feet from the centre line over the physical position of the cut stone monument on the belief that this monument was not in its original position as established by Municipal Survey No. 290".

The Director of Titles ruled that: "In my view, the position of physical monuments planted to define legal corners must hold over the called theoretical distances to these corners, and the onus of proof must lie upon he who attempts to disregard the monuments as best evidence".

A copy of the Notice of Confirmation will be provided to any member who wishes to delve into this subject.

(Mr. Wright is a Member of the Association's Editorial Board)

comes mandatory and eliminates any element of discretion."

Some legal authorities have interpreted the Great Western case to mean that an Environmental Impact Report cannot be required for a final subdivision map as approval of such a map is "ministerial" and not "discretionary" as in the case of a tentative map.