

Housing feud

## **Opposing groups file briefs in county housing lawsuit**

**Court decision could have statewide implications**

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Opposing organizations are weighing in on an affordable housing advocacy group's legal challenge to Napa County's housing plans, saying the suit could have impacts that would ripple across the Bay Area and California.

The case, now on appeal, has drawn the interest of two Bay Area social justice and human rights groups who are supporting the plaintiff, Latinos Unidos Del Valle de Napa y Solano.

Two statewide organizations are rallying behind the county as the appeal progresses through the California 1st District Court of Appeal.

Initially filed against the county in Napa County Superior Court in 2009, Latinos Unidos' lawsuit was at first an exclusively a local affair. Latinos Unidos argued the county's housing plans were inadequate, didn't comply with state and federal laws, and some practices and policies were discriminatory.

The group lost that case in court in 2011, with former Superior Court Judge Ray Guadagni ruling in favor of the county on every element of the case. Latinos Unidos appealed in April 2012.

The California State Association of Counties and the League of California Cities have offered their support to Napa County in the appeal, arguing in their brief that the case could affect how local governments' housing plans are challenged in courts statewide.

On the other side, Oakland-based Urban Habitat and San Jose-based Law Foundation of Silicon Valley are supporting Latinos Unidos. Their brief excoriates Napa County's track record in providing affordable housing, saying it's one of the worst in the Bay Area at supplying such housing to meet pent-up demand.

The groups argue that the Latinos Unidos case offers a chance to have more affordable housing built in the county. Their brief asserts that high housing prices have forced workers to commute in and out of the county, leading to more greenhouse gas emissions.

The county has always defended its housing plans and policies, first when the state Department of Housing and Community Development refused to certify the county's housing plans in 2009,

and later during the Latinos Unidos lawsuit. It argues the plans, called a Housing Element, complied with state and federal laws.

“We’re hoping that the Appeals Court agrees with the Superior Court that the Housing Element meets the requirement,” County Planning Director Hillary Gitelman said.

David Grabill, an attorney for Latinos Unidos, did not return a phone call seeking comment on the appeal Friday.

The county’s plans, which the Board of Supervisors approved in June 2009, picked the Napa Pipe site south of Napa, parcels of land in Angwin, as well as sites at Moskowitz Corners and Spanish Flat at Lake Berryessa as the locations for 569 homes.

The city of Napa took on 82 units of county’s allocations. Only the Napa Pipe site would need re-zoning and General Plan amendments to accommodate housing.

Housing and Community Development balked at this plan, telling the county that the Angwin, Moskowitz Corners and Spanish Flat locations were too far-flung and too low-density to be affordable to lower-income households. It urged the county to approve more housing at Napa Pipe than the 20 acres and 300 units included in the housing plans. The state said additional units were necessary to cover the costs of environmental clean-up at the former industrial site.

Latinos Unidos filed suit shortly after, in November 2009, asking the court to force the county to revise its plans.

Guadagni declined to do so. In his ruling, he wrote that Latinos Unidos’ evidence failed to prove county land-use regulations have limited — or will limit in the future — the supply of affordable housing in Napa County.

Guadagni cited the county’s approval of moderate-income housing in the unincorporated area, its farmworker housing centers, and subsidies from the affordable housing fund, into which developers pay. That fund has subsidized 700 units of affordable housing in the last 20 years, he wrote. He also noted the still-active application for development at the Napa Pipe site, and Pacific Union College’s application for development in Angwin, which was later withdrawn.

Urban Habitat and the Law Foundation of Silicon Valley disagreed with that ruling, and argue in their brief that Guadagni incorrectly interpreted state law in limiting what evidence could be presented at trial. Affirming Guadagni’s ruling, the brief argues, would undo efforts the state Legislature has undertaken to get local governments to provide detailed analysis in selecting sites for residential development.

“The interpretation of trial court would render this careful progression of statutory requirements meaningless,” the brief states. “According to the court’s ruling, environmental constraints on each individual site, its infrastructure and its existing uses need not be analyzed.”

The California State Association of Counties and the League of California Cities argue that overturning the ruling and requiring changes in the county's housing plans would be an overreach, and improperly affect the Board of Supervisors' ability to make legislative decisions.

The reviews have to be limited to whether local governments' housing plans comply with the law, and not stretch into judgments on the wisdom of their policy decisions. Latinos Unidos' arguments, the brief contends, amount to "challenging the wisdom of policy determinations."

"The substance of Plaintiffs' arguments would, in fact, push this Court beyond the review outlined in these cases by making judgments on the merits of the County's policy decisions, not because the County acted in any arbitrary and capricious way, but because Plaintiffs disagree with the County's determinations," the brief states.