

Rutan & Tucker, LLP Scores Significant Victory For City of Cerritos In Affordable Housing Case

COSTA MESA, Calif., April 28, 2010 – Attorneys at Rutan & Tucker, LLP, California's largest full-service law firm based in Orange County, recently achieved a significant victory for the Cerritos Redevelopment Agency and the City of Cerritos when a state appeals court ruled that an affordable 247-unit senior housing project, a senior center and four-acre park can be built on property owned by the ABC School District. Partners Dan Slater, Mark J. Austin and William H. Ihrke led the Rutan team.

The case brought into question whether a city and a redevelopment agency may use funds earmarked for low- and moderate-income housing to purchase and renovate property that would then be leased to a school district as part of an arrangement that would let the district, in turn, lease other property to the agency for construction of an apartment complex for seniors.

The case also questioned whether the project must be submitted to a vote of the electorate under article XXXIV of the California Constitution, which requires voter approval for a "low rent housing project" developed, constructed or acquired by any state public body, and whether a city and redevelopment agency may form a private nonprofit corporation to own and operate the affordable housing development.

The plan had been opposed by United Community Alliance and the Cerritos Taxpayers Association, who argued that the public agencies had violated state redevelopment laws, and that the project should have been submitted to voters for approval. In an affirmation of a lower court ruling, the appellate judges ruled that the use of the restricted affordable housing funds was legal, no election was required for the project, and that the City and Agency had authority to establish the private nonprofit entity.

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According to the terms of the deal, the Cerritos Redevelopment Agency would lease the District-owned property for 55 years for construction of the project and would relocate the District facilities to other property the District would lease from the City. The Redevelopment Agency would then transfer the 55-year lease to the nonprofit organization to develop and operate the project.

“The case is significant in that it enhances how redevelopment agencies may use affordable housing funds and will make it easier for cities and redevelopment agencies to meet their respective statutory mandates to produce affordable housing units,” said Hans VanLigten, head of the firm’s Public Law Section. “The published appellate opinion in this precedent-setting case undoubtedly will have statewide impact.”



[Court of Appeal Opinion.pdf](#)

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