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Protecting Property Rights: *Who should be sued?*

An ongoing issue in the manufactured housing industry concerns *property rights*. There are multiple lawsuits by and between owners of manufactured housing communities and Cities and Counties in California. A recent case illustrates a simple point to remember. Who is being sued is critically important.

In late September of this year, the Fourth District Court of Appeal, out of San Diego, issued an opinion in a matter that was filed as an *inverse condemnation* action. The basic claim was that the regulatory scheme took property proposed for development owned by the land owner and that fair compensation was due to the owner under the Fifth Amendment “takings clause”.

The property owner lost but not because the merits of his case were deficient. Rather, when the owner filed suit against the County of San Diego and the San Diego Airport Authority, for unknown reasons, he failed to name the municipality [the City of Carlsbad] that actually had the legal authority to permit lawful uses (development) of the property.

After reviewing the facts alleged in the complaint, and the County’s motion for summary judgment, the Court of Appeal noted, correctly, that the

governmental entity with the power to approve, or disapprove, the proposed development was the City of Carlsbad.

The Court of Appeal determined that while the County and the Airport Authority each had regulations, the only entity that had the legal jurisdiction to apply [or not apply] those regulations to the property owned by the Plaintiff was the City of Carlsbad. The failure to name the City as one of the entities responsible for the alleged damage was *fatal* to the lawsuit.

This is a reminder that when in doubt ALL of the potentially responsible parties should be named in a claim for damages.



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Hart King represents publicly held corporations, mid-sized businesses and entrepreneurs in all state and federal courts within California. The firm offers a wide range of civil litigation and transactional services in the areas of business, commercial real estate, manufactured housing, professional design & construction, and trust and estate matters.

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