



GROSSMONT-CUYAMACA
COMMUNITY COLLEGE DISTRICT

SUPREME COURT RULING LIKELY TO SPEED LOCAL EIR RESOLUTION

AUGUST 7, 2006

Dear Colleagues:

The California Supreme Court recently issued its long-awaited decision on the "Marina Case," a case of particular interest to us and other public education entities because of its potential impact on the development of educational facilities.

For years, cities, counties and school districts have disagreed over who should pay the costs of development. If a school district constructs a school, for example, who should pay for the impact on local roads? Educational institutions have maintained that the state constitution does not allow education funds to be used for non-education projects.

For our district, the impact of implementing each college's complete master plan was reviewed in two college-specific and state-required Environmental Impact Reports (EIRs). The Cuyamaca EIR, identifying limited impact, was approved by the District, but challenged by the County of San Diego. The District's position was upheld at the first court level, but recently overturned at the Appellate Court. The District then decided to appeal to the California Supreme Court.

Shortly thereafter, the California Supreme Court issued its Marina ruling, concluding that where there is an impact, the constitution does allow education funds to be used. However, it also specified that such use would need to be reasonable and proportional to the impact. In other words, if the generation of additional traffic only added one percent impact, the educational entity should not be expected to pay for 100% of new road widening, or other road improvements unless they were specifically related to the new project or development.

For the Grossmont-Cuyamaca Community College District, the new court decision impacts the lawsuit between the County of San Diego and our District. The court's ruling is helpful because it clarifies, finally, that under certain circumstances, education funds can be used for traffic improvements while also specifying proportional mitigation, that is, cost sharing on a prorata basis.

The District has maintained that, even if it were found to be legal to use educational dollars, it would only be appropriate to use those dollars to the extent that there is an actual impact. The court ruling makes it clear that the board made the correct decision in challenging the County's demands to pay 100% of road improvements miles away from the college. The cost demands of \$11-20 million were totally inappropriate. The court ruling, in this respect, clearly supports the district's position.

The District will be approaching the County to discuss options. Given the current road construction in the vicinity of Cuyamaca College, the County is obviously responding to community, not college, traffic needs.

Now that the court has clarified the issue, we intend to resolve the matter between the District and the County of San Diego. The District plans and research have always shown the proportional impact to be very limited, even when based on Cuyamaca's entire Master Plan. Now that a proportional impact approach has been validated, we can proceed to reexamine impacts on a project-by-project basis, an approach that is far narrower.

Three major conclusions may be drawn from all of this: First, the District was right to challenge the County's claim. Had the County demands been met, there would have been a major financial impact. Second, there is no expectation of any negative impact on current projects under way at either Grossmont or Cuyamaca. Third, instead of using the complete Cuyamaca Master Plan as the basis for assessing the environmental impact, the impact should now be assessed on a project-by-project basis. This adjustment will allow us to analyze traffic impacts that might be phased in over a decade or more. It also makes it very likely that we will pursue additional state funds for impacts connected to specific construction. The San-Diego Union-Tribune, in a recent editorial on the court's ruling, pointed out that the state has an obligation to protect the environment and it is there, at the state level, that the funding obligation belongs, not at the local level.

Finally, construction that is to serve current as well as future students may well be identified as having no impact on the surrounding community.

The court's decision will assist us in dealing with this issue very affirmatively. We can look forward to a positive resolution with the county. I assure you I will keep you informed. If you have questions in the meantime, please let me or Vice Chancellor-Business Services Jim Austin know.

Sincerely,

Omero Suarez

Omero Suarez, Ph.D.
Chancellor