



## Jury Awards ECG Developer Client \$4.8 MM in Eminent Domain Action

Santa Maria, CA – July, 2003

After a four week trial, a jury awarded \$4,784,962.80 as just compensation for a 57.56 acre parcel of land previously condemned by the Santa Maria Joint Union High School District for use as a new high school. The verdict was unanimous.

In eminent domain cases, a key issue is what the condemned property can reasonably be used for – not what it is actually being used for; the property’s highest and best use determines its fair market value. In arriving at the approximate \$4.8 million award, the jury determined that the highest and best use of the condemned property in this case was, and is, for residential development, despite the fact that the land was being farmed at the time that it was condemned. As a result, the jury rejected the position of the District’s expert that, due to “market conditions,” the condemned property could not be developed into residential housing in the near future, but was only usable as farm land. Similarly, the jury wholly disregarded the conclusion of the District’s expert that the condemned property was only worth slightly more than \$2,000,000 – or slightly more than agricultural land prices in the area.

During trial, attorneys for the landowner and Main Street Capital Partners, LLC – the developer who is under contract to purchase the condemned property as part of a larger parcel – presented evidence that the land was physically adaptable for residential use, was surrounded on two sides by single family housing, was within the City limits and was not located within one of the City’s “no urban growth” zones. Moreover, local land use planning consultant Laurice Tamura, of Urban Planning Concepts, explained that the City of Santa Maria was extremely pro-growth and that there is a very strong ongoing demand for housing in the City. Ms. Tamura further testified that, six months before the District condemned the property on July 9,

2002, Main Street had filed an application to have the 57.56 acre school site – as part of a larger 115 acre parcel of land – rezoned for single-family residential housing. Further, Ms. Tamura testified that the land would have been rezoned for residential use over ten years ago, had the landowner consented to the change at that time.

Given the landowner and Main Street’s position that the land was adaptable for use as a residential subdivision, Main Street’s expert appraiser, Brian Larson, MAI, testified that the fair market value of the property was approximately \$5,500,000. Similarly, the landowner’s expert testified that the property was worth approximately \$4,600,000. The jury’s award fell in between the two defendants’ values.

“This is a great victory for the landowner and Main Street, as well as for the City of Santa Maria,” said Corey E. Taylor, of Enterprise Counsel Group, A Law Corporation, who along with attorney Brandon Nelson, served as Main Street’s trial counsel. “There is no dispute that the City desperately needs a new high school. The verdict recognizes that the City also desperately needs more housing. The verdict also shows that, even during budget crises, public entities cannot condemn land for the public use without paying land owners a fair price. The verdict represents the lower range of the market price for similar parcels in Santa Maria.” Mr. Taylor continued, “The City of Santa Maria is growing rapidly. The evidence at trial established that the City Council is in the process of annexing thousands of additional acres of land into the City limits on which to build houses. The District’s position that the condemned property – which is already within the City limits – would somehow not be rezoned and entitled for residential use before those additional lands were annexed, defied common sense.”

Moreover, documents filed with the Court revealed that the District first had the condemned property appraised in 2001. The District's own resulting appraisal concluded that the property was worth approximately \$80,000 per acre at that time – just slightly less than the jury's ultimate award. Apparently unhappy with that appraisal, it was hidden and the District hired the appraisal firm that ultimately testified on the District's behalf at trial. "Although the jury did not learn of the prior appraisal," said Mr. Taylor, "its verdict vindicates the land owner and Main Street – the jury ordered the District to pay what the District knew, but chose to ignore, the property was worth."

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