

Sacramento leaders will appeal ruling that said bias prevented 16-pump Safeway gas station

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JANUARY 10, 2018 11:35 AM

UPDATED 1 MINUTE AGO

Sacramento city leaders say they will appeal a [court ruling](#) that invalidated their denial of a 16-pump gas station in the large Crocker Village development near the Curtis Park neighborhood.

In a 6-0 vote Tuesday night, the City Council authorized its attorneys to challenge a Sacramento Superior Court ruling last week that determined the Council vote was invalid because of bias against the project being built by developer Paul Petrovich.

In his ruling, Judge Michael Kenny wrote that Councilman Jay Schenirer, who represents the project area, demonstrated “an unacceptable probability of actual bias,” and failed to act in an open-minded manner when the issue came before the council for a hearing and vote in late 2015.

As a result, the judge ordered the city to “rescind” its permit denial and to hold a new hearing on the matter. The judge directed Schenirer “to recuse himself from participating in the new hearing.” He gave the city 60 days to inform him about “what has been done to comply” with his order.

The council vote to appeal the matter occurred in a closed-door meeting Tuesday evening. Councilmembers Schenirer, Angelique Ashby and Eric Guerra were absent for the closed session vote.

City attorneys were not immediately available for comment Wednesday morning.

In an email, Petrovich blasted the appeal effort.

“The Council’s vote to appeal the judge’s decision should outrage every taxpayer in this city,” the developer wrote. “The order was very clear that the city was to simply give me a fair hearing within 60 days and recuse Councilman Schenirer because he illegally fixed the outcome of the council’s vote on the fueling station permit.

“Yet, council members are willing to waste even more precious taxpayer money on top of the \$600,000 they have already spent to try and protect the reputation of one of their own...,” he added.

Petrovich went on to accuse Schenirer and the Council of prioritizing “some affluent Curtis Park residents” and blame the city for holding up completion of the Crocker Village project.

The developer sued the city in early 2016, a few months after the City Council voted 7-2 to deny him the permit.

The developer had asked for city approval to build a 16-pump station at the 72-acre community he is building on a former railyard between Curtis Park and the Union Pacific rail lines. The property is linked to Sacramento City College and a light-rail station by a pedestrian bridge that soars over the tracks.

At build-out, the Crocker Village site is expected to have more than 330 homes and a shopping area at its south end adjacent to Sutterville Road. A senior apartment complex and 45 brownstone-style row houses have been constructed.

The developer had hoped to build a Safeway store there, but the City Council rejected the proposed gas station that would have gone with the supermarket. The gas station previously won city Planning Commission approval.

In his argument for the gas station, Petrovich pointed out that Safeway officials were willing to locate a supermarket at the site, but only if they were allowed to operate a fuel center.

The Sacramento Planning Commission initially granted Petrovich a conditional use permit for the gas station. The Sierra Curtis Neighborhood Association, which opposed the gas station, appealed to the City Council.

In his lawsuit, Petrovich contended that Schenirer and city officials were biased against him and had colluded to illegally deny him a fair hearing. The Petrovich team displayed a series of emails and texts that they said, put together, show Schenirer worked with the SCNA to prepare a case against the gas station, and that Schenirer helped SCNA members lobby other council members to their side.

City attorneys had argued that the city followed an extensive public process, held a “robust” hearing the night of the vote, and that the city offered legitimate reasons to deny the gas station, notably that it was incompatible next to a transit stop and that it would be detrimental to the health, safety and welfare of nearby Curtis Park residents.

The judge did not address the question of whether the city had solid legal reasons to deny the gas station permit. Instead, he focused on what he called the council’s “crucial” legal obligation to act as an unbiased panel.

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