

State of California

Memorandum

Copy to JP

Department of Justice
110 West A Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266

To : Steve Horn
Interim Executive Officer
State Coastal Conservancy
Oakland, California

Date : October 27, 1997

Telephone: CALNET (8) 740-2020
(619) 645-2020

FACSIMILE: (619) 2012

From : PETER H. KAUFMAN
Supervising Deputy Attorney General
Lands
Office of the Attorney General - San Diego

Subject : Mancuso v. State Coastal Conservancy

Enclosed please find a copy of the Statement of Decision and Judgment signed by Judge O'Brien on Oct. 24, 1997 in the above entitled matter. The Court apparently did not believe the Memorandum of Understanding between the Department and the Conservancy complied with the requirements of section 31107.1.

If the case is not settled, we can expect that Mancuso will seek his costs and attorney fees under Code of Civil Procedure section 1021.5.

I will hold off filing the appeal until after the writ is issued and until I see what Mancuso's response to our settlement terms is.

cc. Elena Eger

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 10/24/97

DEPT. 85

HONORABLE ROBERT H. O'BRIEN

JUDGE

DAROLYN JENSEN

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

NONE

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

Reporter

BS040197

Plaintiff

NO APPEARANCES

Counsel

FRANK MANCUSO, SR.

VS

Defendant

CALIF STATE COASTAL CONSERVANCY

Counsel

NATURE OF PROCEEDINGS:

JUDGMENT AND STATEMENT OF DECISION

Copies of the Judgment and Statement of Decision, both signed and filed this date, are sent with copies of this minute order by U.S. Mail this date addressed as follows:

IRELL & MANELLA
1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES, CA 90067-4276

PETER KAUFMAN, SUPERVISING DEPUTY ATTORNEY GENERAL
110 WEST A STREET, SUITE 1100
SAN DIEGO CA, 92101

1 This matter came before the Court on September 23, 1997, on Petitioner's First
2 Amended Petition for Writ of Mandate. The Court, having reviewed and considered the First
3 Amended Petition for Writ of Mandate, all papers submitted in support thereof and in
4 opposition thereto, and the file and records in this action, and having heard oral argument
5 thereon, finds as follows:

6 (1) Petitioner has standing to bring the instant action and has satisfied his burden of
7 proving that the California State Coastal Conservancy (the "Conservancy") and the Department
8 of General Services (the "Department") have failed to comply with the mandatory, ministerial
9 obligations imposed upon them by Section 31107.1 of the Public Resources Code ~~to develop~~
10 ~~and implement procedures to ensure that the Conservancy's transactions "are carried out~~
11 ~~efficiently and equitably and with proper notice to the public."~~

12 (2) Petitioner's claims that the Conservancy unlawfully failed to provide Petitioner
13 with advance notice of or an opportunity to be heard regarding the Conservancy's May 16,
14 1996 approval of the Rauw Feasibility Study have been mooted by the fact that the
15 Conservancy held a new hearing, of which Petitioner was given advance notice, at which the
16 Conservancy again approved the Rauw Feasibility Study.

17 (3) Petitioner's claims that the Conservancy unlawfully failed to provide Petitioner
18 with advance notice of or an opportunity to be heard regarding the Conservancy's
19 20-year property management agreement with the Mountains Recreation and Conservation
20 Authority have been mooted by the fact that the Conservancy rescinded its authorization for
21 the 20-year property management agreement.

22 (4) Petitioner's claim that the Conservancy's 20-year property management
23 agreement with the Mountains Recreation and Conservation Authority violated CEQA has been
24 mooted by the fact that the Conservancy rescinded its authorization for the 20-year property
25 management agreement.

26 Consequently, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
27 peremptory writ of mandate sought by Paragraph C of the First Amended Petition's prayer for

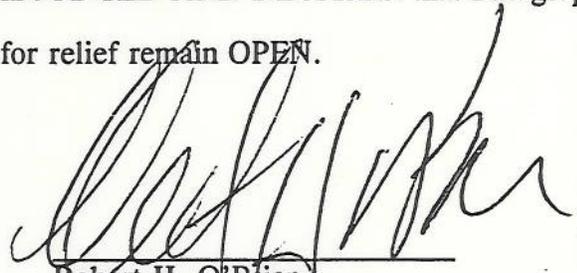
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1 relief is hereby GRANTED. The Conservancy and the Department shall formally and publicly
2 comply with the obligations imposed upon them by Section 31107.1 of the Public Resources
3 Code ~~to develop and implement procedures to ensure that the Conservancy's transactions "are~~
4 ~~carried out efficiently and equitably and with proper notice to the public."~~

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the peremptory writ
6 of mandate sought by Paragraphs A, B and D of the First Amended Petition's prayer for relief
7 are hereby DENIED.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Paragraphs E and F
9 of the First Amended Petition's prayer for relief remain OPEN.

11 OCT 24 1997
12 Dated: _____


Robert H. O'Brien
SUPERIOR COURT JUDGE

14 ~~Presented By:~~
15 ~~IRELL & MANELLA LLP~~
16 ~~Arthur J. Alvarez~~
~~Michael S. Lowe~~
17
18 ~~By: _____~~
19 ~~Michael S. Lowe~~
20 ~~Attorneys for Petitioner~~
~~Frank Mancuso, Sr.~~

Judge - Dep
of Judge O'Brien

OCT 02 1997

FILED
LOS ANGELES SUPERIOR COURT

OCT 24 1997

JOHN A. CLARKE, CLERK

Darolyn Jensen

BY DAROLYN JENSEN, DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

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FRANK MANCUSO, SR., an individual,

Petitioner,

v.

CALIFORNIA STATE COASTAL
CONSERVANCY, an agency of the State of
California, CALIFORNIA STATE
COASTAL CONSERVANCY BOARD, the
governing body of the California State
Coastal Conservancy, CALIFORNIA
DEPARTMENT OF GENERAL SERVICES,
an agency of the State of California, the
MOUNTAINS RECREATION AND
CONSERVATION AUTHORITY, an agency
of the State of California, and DOES 1
through 100,

Respondents.

CASE NO.: BS 040197

~~PROPOSED~~ JUDGMENT

1 This matter came before the Court on September 23, 1997, on Petitioner's First
2 Amended Petition for Writ of Mandate. The Court, having reviewed and considered the First
3 Amended Petition for Writ of Mandate, all papers submitted in support thereof and in
4 opposition thereto, and the file and records in this action, and having heard oral argument
5 thereon, hereby orders as follows:

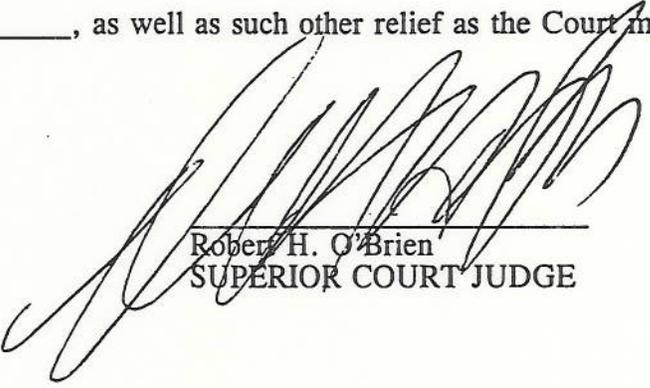
6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the peremptory writ
7 of mandate sought by Paragraph C of the First Amended Petition's prayer for relief is hereby
8 GRANTED. The Conservancy and the Department shall formally and publicly comply with
9 the obligations imposed upon them by Section 31107.1 of the Public Resources Code to
10 develop and implement procedures to ensure that the Conservancy's transactions "are carried
11 out efficiently and equitably and with proper notice to the public."

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the peremptory writ
13 of mandate sought by Paragraphs A, B and D of the First Amended Petition's prayer for relief
14 are hereby DENIED.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Paragraphs E and F
16 of the First Amended Petition's prayer for relief remain OPEN

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that ~~Petitioner Frank~~
18 ~~Manusso, Sr.~~ shall recover ~~his~~ costs from ~~Respondents California State Coastal Conservancy,~~
19 ~~California State Coastal Conservancy Board, and California Department of General Services~~ in
20 the sum of _____, as well as such other relief as the Court may deem
21 appropriate.

22
23 Dated: OCT 24 1997



Robert H. O'Brien
SUPERIOR COURT JUDGE

