

FOR RELEASE 6pm /MAY 15, 2006

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San Rafael Citizens March on City Hall; Demand Action on SLAPP-Happy Developer

Demonstration: 7:15pm; City Council testimony: 8pm

San Rafael, CA - Dozens of citizens representing a cross-section of San Rafael neighborhoods descended unannounced on the San Rafael City Council meeting on Monday night, May 15, to decry the pall of intimidation that now hangs over the citizens of San Rafael because of bully developer tactics.

They called on Mayor Al Boro and the City Council to renounce SLAPP-happy developers and to clean up a public process they say is biased in favor of developers. The citizens say their first amendment rights to speak out against poorly planned projects are being threatened by developers who use their deep pockets and the Marin County courts to strangle public participation.

Protestors wore green arms bands to display their support for environmental protections and dressed in various disguises from muzzles to gags and Sub-commandante Marcos ski masks to Woody Allen glasses to illustrate their fear of reprisal. Many carried signs declaring "San Rafael: wake up and smell the SLAPP suit" and "Speak up; get sued."

The neighborhoods are specifically infuriated by what they are calling a SLAPP (Strategic Lawsuits Against Public Participation) filed by Joe Shekou, a controversial Marin County developer, against Santa Venetia neighborhood activists Robert Dobrin and Frances Nunez. Dobrin and numerous others are fighting a proposed commercial sports facility on Shekou's Smith Ranch property adjacent to San Rafael's Gallinas Creek, a sensitive wetland home to several endangered species.

In his suit, Shekou now claims that he owns sections of Gallinas Creek, the waterway separating Smith Ranch from about a hundred Santa Venetia neighborhood homes on the opposite bank. He further claims that Dobrin and Nunez, who live on the Santa Venetia side of the creek, "built" illegal docks that extend over the now disputed property line.

The fact is there are dozens of docks extending into the creek and most, including Dobrin's, were constructed in the 1960's and early 1970's, years before Shekou acquired Smith Ranch in 1983.

The marchers are angry because they believe Shekou is selectively slapping Dobrin and Nunez on the basis of flimsy claims. "Why file a suit now after all these years?" asks Santa Venetia resident Mary Feller, "it seems like Shekou is using his deep pockets to turn a public policy debate into a personal attack on Dobrin and Nunez." Feller calls both "respected and effective members of our community with a deep environmental conscience" and says "the bigger agenda is to strike fear in the hearts of all North San Rafael citizens who might wish to speak out against [Shekou's] ill-conceived project."

Even more infuriating and frightening to the marchers - Shekou has taken legal steps to place a lien against the homes of Dobrin and Nunez and in the suit further threatens 50 other "john does" to remedy vague and unspecified damages his suit claims will be "proven in court." This clouding of title could "make it hard for Frances, Robert and others to borrow against their homes and pay for a defense" says Mary Hanley who lives on the creek, "defendants could be bankrupted for speaking their minds. It's despicable. And with 50 others as yet unnamed, who else does this developer have in his cross-hairs?"

Residents also point fingers at the law firm of Freitas, McCarthy, MacMahon & Keating who formulated and filed Shekou's suit. "Shame on them," admonishes Hanley, "have they no moral compass?"

San Rafael resident Sam Cogswell further blames the debacle on the San Rafael City Council and Mayor Al Boro. "The City, through the planning department, has consistently acted not as a neutral party as required by law," says Cogswell, "but as an advocate for the interests of this developer, implementing his agenda." In Cogswell's view, the city issued a clearly "biased and specious" negative declaration of impacts on the proposed sports facility. This and Shekou's retaliatory lawsuit has "poisoned the public process," asserts Cogswell, "if the public is afraid to speak up, then you essentially have NO process."

Neighbors living near San Rafael's proposed Village at Loch Lomond, a controversial high-density housing development, joined the march to show solidarity. Many there are also battling what they say is a biased city process which favors developers and pays lip service to public opinion. Participation is in deep chill in their neighborhood also. According to resident Howard Cohn, "We're really frustrated with San Rafael's planning process. We feel like the little man who stood in front of the tank at Tiananmen Square."

The Smith Ranch property was the subject of deed restrictions and a density exchange in 1983. Sometime in the early '90's, Shekou filed a lawsuit against the City of San Rafael and the County of Marin to rescind the deed restrictions in order to build hundreds of homes. But the neighborhoods fought vigorously and the plan was defeated. Shekou was ordered to remove illegal fill dumped in wetland on the property.

The deed restrictions were upheld by the court. But Feller says The City of San Rafael has conveniently been struck by amnesia in regard to the density exchange, critical environmental studies, and even the City's own previous general plans in order to pave the way for the developers. The City's arrogance signals to developers "that they may act with impunity," says Feller.

She says The City can't just rewrite history to suit the ambitions of developers. "This is Marin, not Stalinist Russia," argues Feller, "instead of playing these games, the City of San Rafael ought to send a different message: the bullying of their electorate will not be tolerated."

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**FIRST Community Meeting
for Santa Venetia Residents
was held June 22, 2005.**

Raffi Boloyan

From: Rod Gould
Sent: Tuesday, June 21, 2005 10:31 AM
To: 'Robert Herbst'
Cc: Bob Brown; Bill Scharf; Raffi Boloyan
Subject: RE: Indoor Soccer Facility

Dear Bob, I am flabbergasted that the County would put up barriers to your excellent project. Your letter to Susan Adams is well put and compelling on all points. I have a call into Mark Reiseinfeld to ask for his reasons for this initial opposition. He promised to get back to me, but is deep in transition to retirement on the 30th. We on City staff are very supportive of your project. So is the City Council. I believe that the Planning Commission will also see its many merits. Nonetheless, change comes very hard in Marin. We have received a petition from Captain's Cove residents objecting to traffic and parking impacts that we will answer. We will reach out to the County to try to get it to step back and assess all that your project offers. Thank you and Joe for bringing it forward. It will make a lasting dent in the severe need for additional field space (especially all-weather fields) in North Marin and beyond. -Rod

-----Original Message-----

From: Robert Herbst [mailto:rherbst@jhsproperties.net]
Sent: Thursday, June 16, 2005 5:09 PM
To: Rod Gould
Cc: Raffi Boloyan
Subject: FW: Indoor Soccer Facility

Dear Rod,

As you may know, we have made our final submission for the airport recreational facility. Joe and I both greatly appreciated the supportive message you left a few months ago when we made our original submission.

We've run into a little friction from the County regarding the project, from a somewhat unexpected source: the County parks and rec people. We thought they would be supportive of new fields and facilities, but so far that has not been the case. Their McInnis Park staff member (Stephen Peterle) has stated he is opposed to the project, and he has written a negative letter to City Planning. I spoke with Mark Riesenfeld who is the acting Parks and Open Space Director (the position is currently unfilled) today, and followed up with the attached email. I wanted to bring you and Mayor Boro into the loop on this (could you please forward this email to him?). Any help or advice in establishing a positive dialogue with the County parks and rec people is greatly appreciated.

Kind Regards,

Bob Herbst