

## SUMMARY OF SIGNIFICANT LAND USE and MUNICIPAL LITIGATION

### RICK W. JARVIS

The following is a list of land use and environmental cases in which Rick Jarvis played a lead or otherwise primary role litigating. In addition, Rick has personally supervised or otherwise assisted with many other land use cases not listed here.

***Ailanto Properties, Inc. v. City of Half Moon Bay***  
**San Mateo Superior Court**  
**Published Decision, 142 Cal.App.4th 572 (2006)**

Rick successfully defended the City of Half Moon Bay in a series of lawsuits filed by developers challenging the City's determination that a previously approved vesting tentative subdivision map had expired.

***Alameda County Land Use Association v. City of Hayward***  
**First District Court of Appeal**  
**Published Decision, 38 Cal.App.4th 716 (1995)**

Rick successfully represented a group of landowners in a challenge to a tri-agency agreement which purported to restrict the ability of two cities and a county to later amend their respective general plans.

***Allen v. City of Petaluma***  
**First District Court of Appeal**

Rick successfully defended the City in both the trial and appellate courts from a lawsuit filed by a developer contending that a subdivision was automatically approved under the Permit Streamlining Act.

***Ashoff v. City of Ukiah***  
**United States Court of Appeal for the Ninth Circuit**  
**Published Decision, 130 F.3d 409 (9<sup>th</sup> Cir. 1997)**

Rick successfully defended the City from a citizen suit brought under the federal Clean Water Act and RCRA challenging the City's operation of a municipal landfill.

***Award Homes v. City of Tracy***  
**San Joaquin Superior Court**

Rick defended the City of Tracy from a lawsuit brought by developers challenging the City's allocation of water connections. Rick negotiated a complex settlement with which all parties were satisfied.

***Bear Creek Protective Assn v. FEMA***  
**United States Court of Appeals for the Ninth Circuit**

Rick advised the San Joaquin Area Flood Control Agency on CEQA compliance for a \$70 million flood control project involving construction of levees in and around the City of Stockton. Rick then successfully defended the project from a federal NEPA citizen suit. After defeating a motion for a preliminary injunction, the project was completed, and the lawsuit was dismissed as moot.

***Building Industry Assn v. City of Livermore***  
**Alameda Superior Court; First District Court of Appeal**  
**Published Decision, 45 Cal.App.4th 719 (1996)**

As lead trial attorney, Rick successfully defended the City's ordinance requiring installation of fire sprinklers in new single family residences from a developer lawsuit contending that the ordinance was preempted by state law. The decision was upheld on appeal.

***Brenden Theatre Corp. v. City of Modesto, et al.***  
**Stanislaus Superior Court**

Rick defended the City and the developers in a CEQA challenge to a multi-screen theater and restaurant project in Modesto. The case settled prior to hearing.

***Citizens for Planning Responsibly v. City of San Luis Obispo***  
**San Luis Obispo Superior Court**

Rick defended the City's approval of a 130-acre commercial development project to be annexed to the City. Petitioner contended that the approval violated CEQA and the City's General Plan. Following extensive briefing, the project was set aside as a result of a voter referendum.

***Clearlake Housing NOW v. Redevelopment Agency of the City of Clearlake, et al.***  
**United States District Court, Northern District of California**

Rick negotiated a settlement of a citizen suit asserting claims for relocation assistance and replacement housing and challenges to the City's use of housing set-aside funds.

***Clover Valley Foundation v. City of Rocklin***  
**Sacramento Superior Court**

Representing the developer applicants, Rick is defending a 558-unit residential subdivision from two consolidated lawsuits alleging that the City approved the project in violation of CEQA and the City's general plan. Rick prevailed in the trial court, and the case is now on appeal.

***D. Bailey Neff v. City of Brentwood***  
**United States District Court, Northern District of California**

Rick defended the City of Brentwood from a lawsuit brought by a developer challenging various conditions the City imposed when it approved its tentative map. Rick negotiated a settlement favorable to the City which left the challenged conditions intact.

***Del Rio Community Assn v. City of Modesto***  
**Stanislaus Superior Court**

Rick negotiated a settlement of a citizen lawsuit claiming that the City did not comply with CEQA prior to approving an increase in its water rates from a challenge by a community organization contending that the City did not adequately comply with CEQA prior to approving the increase. The settlement preserves the water rate increase.

***Devonshire Canyon Open Space Alliance v. City of San Carlos***  
**San Mateo Superior Court**

Rick defended the City's approval of a rezoning and annexation of a proposed 5-unit residential development project from a lawsuit contending that the approval violated CEQA and the City's General Plan. Rick negotiated a settlement of this lawsuit, resolving the differences between petitioners and real parties.

***Diablo Grande Litigation***  
**Stanislaus Superior Court; Fifth District Court of Appeal**  
**Published Decision: 48 Cal.App.4th 182 (1996)**

Rick defended a 30,000-acre resort development project in Stanislaus County from a series of CEQA lawsuits filed over several years, and advised the developer on CEQA compliance. Rick was instrumental in obtaining a judgment which allowed development of the project to proceed, despite the court finding some CEQA violations.

***Downtown Preservation Committee v. City of Modesto***  
**Stanislaus Superior Court; Fifth District Court of Appeal**

Rick successfully defended the City's approval of a downtown redevelopment project from a CEQA citizen suit challenging the loss of a historic structure.

***Friends of Canyon Creek v. City of Redding***  
**Shasta Superior Court**

Rick successfully defended the City and the developer real parties in interest against a CEQA lawsuit challenging the City's approval of a 270-unit residential development project. Petitioners contended that the City's EIR did not adequately analyze the environmental impacts of supplying water to the project.

***Friends of Nelson Garden v. City of Saratoga***  
**Santa Clara Superior Court**

Rick successfully defended the City's approval of a 5.1-acre in-fill residential development project from a citizen suit by neighbors challenging the project's consistency with the City's general plan.

***Friends of the USS Crescent City v. Port of Oakland***  
**Alameda County Superior Court**

Rick successfully defended the purchaser of a former World War II ship from a CEQA challenge contending that the sale would result in adverse impacts to a historic resource. The petitioners dismissed their lawsuit after Rick persuaded the court to deny their motion for a preliminary injunction on the grounds that the court lacked authority to undo a completed sales transaction.

***Garrett Hardware v. Town of Windsor***  
**Sonoma Superior Court Case**

Rick successfully fended off a host of CEQA challenges to a series of approvals of various aspects of a shopping center brought by a business competitor. After winning summary judgment in one case (challenging a gas station and fast food restaurant) and assisting the Town with bullet-proofing a supplemental EIR for a Home Depot to be added to the center, the petitioners finally withdrew their remaining legal challenges.

***Home Builders Association of Northern California v. City of Livermore***  
**Court of Appeal, First District**

Rick was lead trial attorney in successfully defending the City's refusal to issue final maps and building permits to developers who refused to comply with an ordinance requiring that they form a Mello-Roos District to provide funding for school facilities, or provide alternative comparable funding. The judgment was upheld on appeal.

***Johnson v. Half Moon Bay***  
**San Mateo Superior Court**

Rick successfully defended the City's denial of various development permit applications brought by a developer seeking to develop a substandard lot.

***KB Homes v. City of Tracy***  
**San Joaquin Superior Court**

Rick successfully defended the City of Tracy from a lawsuit brought by a residential developer challenging a fee for water connections. The court upheld the fee.

***Northern California River Watch v. City of Ukiah***  
**U.S. District Court, Northern District of California**

Rick negotiated a settlement of a citizen lawsuit alleging that the City of Ukiah operated its wastewater collection and treatment facilities in violation of the Clean Water Act.

***City of Pleasanton v. City of Dublin***  
**San Mateo Superior Court**

Rick helped successfully defend the City of Dublin's approval of the Eastern Dublin Specific Plan from a citizen suit asserting CEQA and General Plan consistency challenges.

***Regional Water Quality Control Board v. City of Healdsburg***  
**Alameda Superior Court**

Rick successfully defended the City's approval of a wastewater disposal project from CEQA lawsuits brought by the Regional Water Quality Control Board, a neighboring town, and a citizen group.

***L.D. Riviera v. East Palo Alto Sanitary District***  
**San Mateo Superior Court**

On behalf of a redevelopment project supported by the City of East Palo Alto, Rick successfully challenged a sewer connection fee increase adopted by the District.

***Rullhausen v. City of Morgan Hill***  
**Santa Clara Superior Court; First District Court of Appeal**

Rick successfully defended the City's approval of a CUP for a gas station from a citizen suit brought by a competitor asserting that the City's general plan was not adequate.

***San Francisco BayKeeper v. City of Saratoga***  
**Northern District of California; Ninth Circuit Court of Appeal**

Rick defended the City from a Clean Water Act citizen suit challenging storm water discharges. The case settled following extensive litigation.

***City of San Bruno v. BART***  
**San Mateo Superior Court**

Rick represented the City in a lawsuit against BART concerning public access around the new police station located at the San Bruno BART station. Rick successfully obtained two temporary restraining orders keeping access open, and the case has now settled on terms beneficial to the City.

***City of San Jose v. City of Milpitas***  
**Santa Clara Superior Court**

Rick defended the City's approval of a large specific plan development project from three separate CEQA lawsuits, two by operators of nearby waste disposal facilities concerned about impacts of odors on the project. After extensive briefing, the cases settled.

***City of San Leandro v. Port of Oakland***  
**Alameda Superior Court**

Rick successfully represented the City of San Leandro in a CEQA lawsuit challenging the Port of Oakland's expansion plans for the Oakland Airport. After the City obtained a favorable judgment in the superior court, the Port settled with the City.

***City of San Pablo v. City of Richmond***  
**Contra Costa Superior Court**

Rick represented the City of San Pablo in a lawsuit challenging the City of Richmond's approval of a neighboring industrial subdivision. The lawsuit alleged that Richmond City Council met in closed session to discuss the project without complying with the Brown Act. The case settled on terms favorable to San Pablo.

***Sierra Club v. City of Tracy***  
**San Joaquin Superior Court**

Rick represented the City against a series of CEQA lawsuits brought by the Sierra Club and other parties challenging various development approvals. The cases have all settled.

***Sierra Watch v. Placer County***  
**Third District Court of Appeal**

On behalf of Sierra Pacific Industries, and in collaboration with Placer County and other interested parties, Rick defended the County's approval of the Martis Valley Community Plan against a broad CEQA challenge filed by various organizations. Rick was instrumental in obtaining a decision from the trial court holding that the Plan was consistent with the County's General Plan. The case then settled on terms which left the Plan intact.

***Sonoma County Bicycle Coalition v. Santa Rosa Junior College District***  
**Sonoma County Superior Court**

The College District retained Rick to help bullet-proof an EIR it was preparing for the construction of a multi-story parking garage. Rick then defended the District's certification of the EIR and approval of the garage against a CEQA challenge filed by the Bicycle Coalition. Rick negotiated a settlement with the Coalition which allowed the garage to be constructed.

***SPACE v. City of Menlo Park***  
**San Mateo Superior Court**

Rick successfully helped defend the City's approval of an in-fill subdivision from CEQA challenges brought by two neighborhood groups.

***Tracy First v. City of Tracy***  
**San Joaquin Superior Court**

Rick is defending the City of Tracy's approval of a WinCo store from CEQA challenges asserting that the EIR did not adequately analyze urban decay and other impacts.

***TRAQC v. City of Tracy***  
**San Joaquin Superior Court**

The City retained Rick to assist with the drafting of administrative guidelines implementing a growth control initiative measure which had been enacted by the electorate. After the City adopted these guidelines, a group of developers and a group of citizens both filed lawsuits challenging them. Rick negotiated a settlement with the developers, and successfully defended the guidelines in court from the citizen challenge.

***Vineyard Area Citizens for Responsible Growth v. Sacramento County***  
**Sacramento County Superior Court**

Retained by developers of a large residential subdivision project, Rick negotiated a favorable settlement early in the litigation.

***Wal-Mart v. City of South San Francisco***  
**San Mateo Superior Court**

Rick successfully defended the City against a petition for writ of mandate brought by Wal-Mart seeking to compel the City to approve its development application.

***Wal-Mart Stores, Inc. v. City of Turlock***  
**Fifth District Court of Appeal**  
**Published Decision, 138 Cal.App.4th 273 (2006)**

Rick successfully defended the City in the trial court and on appeal against a CEQA challenge brought by Wal-Mart challenging its adoption of an ordinance prohibiting certain types of big-box developments.

***Watsonville Pilots Association v. City of Watsonville***  
**Sixth District Court of Appeal**  
**Published Decision, 183 Cal.App.4th 1059 (2010)**

Rick defended the City's approval of an update to its general plan from a lawsuit challenging its designation of land near an airport for future development. The lawsuit contended that the City violated CEQA and the State Aeronautics Act.

***Weed v. City of Fremont***  
**Alameda Superior Court**

Rick defended the City's approval of a zoning ordinance increasing the permitted density of commercial development in a historic district of the City from a CEQA lawsuit challenging the City's analysis of the impacts this development will have on parking.

***William A. Machado Construction v. City of Modesto***  
**Stanislaus Superior Court**

Rick defended the City of Modesto from a lawsuit challenging the City's denial of a four-lot parcel map alleging that the denial violated the City's local ordinances and the developer's rights to due process. The case settled on terms favorable to the City.

***Wind River Woodland Partners v. City of East Palo Alto***  
**First District Court of Appeal**

Rick defended the City against a Permit Streamlining Act claim by an apartment complex owner contending that its application for a condominium conversion was automatically approved by operation of law.

***Yamagiwa v. City of Half Moon Bay***  
**Various State and Federal Courts**

Rick defended the City of Half Moon Bay against a lawsuit filed by a developer relating to an 87-lot subdivision. Rick successfully obtained a court of appeal ruling upholding the City's denial of a coastal development permit for the project, which denial was based upon the presence of wetlands.

***Yellow Flag Alliance v. County of Sonoma***  
**Sonoma Superior Court**

Rick defended the County's approval of expansion plans for Sears Point Raceway from a CEQA lawsuit brought by neighbors challenging noise-related impacts. The case settled on favorable terms which allowed the expansion to proceed