

Dept. F-49
Calendar # 8
Date: 4/6/17
Case #PC056481

TRIAL DATE: 6/19/17

PRELIMINARY INJUNCTION

MOVING PARTY: P People of the State of California and County of L.A.
RESPONDING PARTY: Ds Barton Wayne Fishback, et al.
NOTICE: ok

RELIEF REQUESTED: A preliminary injunction enjoining RPs/Ds and their employees, agents and persons acting with them or on their behalf, from importing and depositing and/or allowing to be imported and deposited any solid fill, as defined by Title 22 of the Los Angeles County Code (Zoning Code), for any purpose without first securing a conditional use permit.

Additionally, MPs request an order to stop Ds from conducting any construction, stockpiling, or development in the designated hillside management areas and significant ecological areas in the Oat Mountain area of unincorporated County of L.A. without the required land use permits.

MPs seek to enjoin Ds from engaging in unlawful activity at certain real properties located along Browns Canyon Road (APN 2821-0090030 (Parcel 30), APN 2821-009-031 (Parcel 31), APN 2821-002-023 (Parcel 23), APN 2821-002-025 (Parcel 25), APN 2821-002-024 (Parcel 24) and APN 2821-009-029 (Parcel 29)) in the unincorporated community of Oat Mountain, L.A. County, State of CA and from any other property within the unincorporated areas of the County.

RULING: The relief is granted, in part, as set forth below.

Ps' Request for Judicial Notice (RJN) is granted.

Ps' request to enjoin Ds and their employees, agents and persons acting with them or on their behalf, from importing and depositing and/or allowing to be imported and deposited any solid fill, as defined by Title 22 of the Los Angeles County Code (Zoning Code), for any purpose without first securing a conditional use permit is tied to the parties' requests for clarification which are set for hearing on 5/1/17.

While Ds contend that the preliminary injunction issued by the court in December 2015 does not prohibit their importation of clean soil, they sought relief from this court in order to import such soil. (Fishback Decl. ¶¶13-17). As a result, this court issued orders on 2/24/17 and 2/28/17 which allowed Ps to import clean soil, not to exceed 1,000 cubic yards, solely for the purpose of the repairs of the eroded hillsides and slopes. The permission granted by the court ended on 3/13/17.

Therefore, any continued importation of such material after 3/13/17 or beyond 1000 cubic yards is in violation of these orders. Until the issue of what constitutes the importation of prohibited materials is clarified on 5/1/17, Ds are enjoined from further importing clean soil or solid fill on the properties.

During the pendency of this action, Ds are also enjoined from conducting any construction, stockpiling, or development in the designated hillside management areas and significant ecological areas in the Oat Mountain area of unincorporated County of L.A. without the required land use permits.

Ps have established a reasonable probability that they will prevail at trial as the evidence indicates that Ds are engaging in unlawful development of the properties, not subject to any exemption. (Tae Decl; Swann Decl., Ex.9). Even if these claims are not expressly made in the FAC, Ps may seek leave to amend to conform to proof at trial.

Ds have not established that they will suffer any harm, which was not caused by their own conduct, if the preliminary injunction is granted. Ps have made a sufficient showing that the hardships weigh in favor of granting the relief because Ds may be committing a nuisance per se.