

KenyonYeates Prevails on behalf of two separate Tuolumne County Citizen Groups

Representing Tuolumne County Citizens for Responsible Growth, Inc. and Neighbors in Support of Appropriate Land Use in two separate actions before the California Court of Appeal, Fifth Appellate District, KenyonYeates successfully reversed the trial court's decision in one case, and affirmed the judgment in the other, resulting in the establishment of important precedents under the California Environmental Quality Act ("CEQA") and State Planning and Zoning Law.

In *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora, et al.*, a concerned group of residents of Sonora and other local citizens challenged the City's approval of a Lowe's Home Improvement Warehouse. In this case, KenyonYeates successfully argued that the City of Sonora had unlawfully segmented, or "piecemealed" its CEQA environmental analysis, by pretending that the realignment of an adjacent intersection was not an integral part of the "whole" project.

The Fifth Appellate District's October 2, 2007 Opinion in *Tuolumne County Citizens for Responsible Growth* holds that, as a matter of law, the construction of the Lowe's project and the realignment of the road were all part of a single CEQA "project," because 1) the City had included the road realignment as a required mitigation measure when approving the Lowe's project, and 2) the Lowe's project could not be carried out unless and until the road realignment was completed. In so ruling, the Court established an important precedent by clarifying that when an activity (the road realignment) is included as a mandatory condition of carrying out a related project (the Lowe's Home Improvement Warehouse), the public agency doing the environmental review under CEQA must treat both activities as a single "project."

In *Neighbors for Appropriate Land Use, et al. v. County of Tuolumne, et al.*, KenyonYeates represented an association of rural residents who opposed the County of Tuolumne's decision to grant a conditional use permit allowing one landowner to conduct commercial events (weddings and other large, social gatherings) on his agriculturally zoned property, despite the fact that such uses are not allowed on agriculturally zoned land in the County. The County took the position that it could enter into a "development agreement" with the landowners to grant them special privileges that were denied by the County's zoning ordinance to other land owners of similarly zoned agricultural lands in the County.

On December 7, 2007, the Fifth Appellate District affirmed the decision of the Tuolumne County Superior Court, concluding that California's cities and counties may not use development agreements to violate the land uses that are otherwise allowed under their zoning ordinance codes. The County's position, if it had been upheld, would have effectively resulted in landowners' ability to "buy" the right to engage in whatever land uses they please from local agencies, regardless of 1) well-settled expectations of neighboring land owners, and 2) the adverse impacts of allowing incompatible land uses next door to one another. The Court's ruling establishes an important precedent, by clarifying that development agreements must be consistent with the land uses that are

allowed under a city or county's zoning ordinance, and that owners of similarly zoned lands must be treated fairly and equally.