

**APTOS COUPLE SUES COUNTY SUPERVISORS AND TOM BURNS FOR ALLEGED EXTORTION, COLLUSION, VIOLATION OF FEDERAL, STATE AND LOCAL ORDINANCES AND CIVIL RIGHTS VIOLATIONS OBSTRUCTING DUE PROCESS OVER FENCE FEUD. ADMINISTRATIVE SCHEMING AGAINST PROPERTY OWNERS AND DENYING ACCESS TO DUE PROCESS HAS UNCOVERED "APPEALGATE".**

Santa Cruz, CA - June 15, 2009, the Aptos Couple's landmark case [second amended complaint](#), allowed by the Federal Judge per his Order of May 15, 2009, is now posted. With extensive **Board of Supervisors** and County staff breaches of mandatory duties and the concealment of the appeals boards since 1976 - "**Appealgate**"- is well documented. The Board of Supervisors did not hear any appeals as a default governing body either. Government codes, Health & Safety Codes, Uniform Building Codes, Codes of Civil Procedure and Constitutional law support the Plaintiff couple in this 3.5 year long fence v government feud. This is a much bigger case than the [Padgett case](#) that recently prevailed against arbitrary and capricious government treatment by the City of Monte Sereno.

If the Board of Supervisors chooses to hear appeals on June 16, 2009, they will have to relinquish their first position seats as supervisors per Government Code 1099. On June 9, 2009, agenda item #12, the Board of Supervisors unanimously and unlawfully disbanded the newly assembled independent Building and Fire Code Board of Appeals Commission and elected themselves to as the board. Citizens continue to not have due process rights under this administrative regime.

May 11, 2009 - **The Federal Court upheld the Plaintiff's Opposition to the County's Motion to Dismiss the Supervisors as Defendants. [See Federal Order](#).** The **Board of Supervisors** will remain as defendants who are alleged to have committed unlawful activities, overreached into the planning department and usurped State, Federal and Constitutional laws.

The Plaintiffs, Rev. Oracle and Elan state, ***"In a new amended complaint requested by the Federal Judge, we will be filing further evidence to expose the Board of Supervisors and Tom Burns, Planning Director, of their alleged illegal schemes to defraud and deprive citizens of their property rights"***. Plaintiff's Rev. Oracle and Elan are citizens standing up for all property owners' rights in Santa Cruz County who have experienced intimidation, abuse, adverse decisions and unreasonable fees for decades. **The Federal Court stated this is a case where the County was deficient in mandatory duties and acted in the height of arbitrary and capricious treatment towards Plaintiffs.**

In addition, the court determined the fees and insularity on the planning department's part about permits is NOT moot and will not be removed from the court case. The Plaintiffs are allowed to file an amended complaint to further their claims. The County Supervisors have designed ordinances in violation of higher laws to suppress property rights and defraud the public through excessive or illegal fees; recordation of unjustified retags to title and land takings. They have also denied property owner's due process by concealing the State mandated **Building and Fire Code Board of Appeals Commission** since April 20, 1976

– yes for 33 years. Not one appeal has ever made it to the appeals board that existed on paper only with expired members and the Board of Supervisors have not heard any appeals from the planning dept.

April 24, 2009- Update: The Federal Court Hearing of Plaintiff's Opposition to County's Defendants' Motion to Dismiss has been moved to May 8, 2009, 1:30PM, due to court scheduling.

March 11, 2009- Reverend Oracle and Elan file substantial **Plaintiffs' Opposition to County's Defendants' Motion to Dismiss** Supervisors from Amended Complaint of their violations of property rights passing ordinances in defiance of State and Federal laws, breaching Constitutional rights to due process and ignoring their mandated duties and oaths of office. A jury trial would benefit Plaintiffs' fighting to protect property rights for everyone. See documents sequenced below.

January 31, 2009 - Update: The **Motion for Amended Petition and Complaint** for an Aptos couple was accepted by **Judge Atack** in Santa Cruz County Superior Court today. **Tamyra Rice** was replaced by **Jason Heath** as County Counsel. **Pierce and Shearer**, a top Palo Alto law firm, continues to prevail over unlawful County actions and abuses against property owners. **Andrew Pierce is President of the Palo Alto Bar Association**. Named in the lawsuit are **Tom Burns, Ellen Pirie, Tony Campos, Mark Stone, Jan Beautz, Neil Coonerty** - Supervisors and the County of Santa Cruz - a subdivision of the State of California. The County has petitioned to move this major case to Federal Court. **Judge Jeremy Fogel will preside. Judge Fogel has a record for fairness and is nonpolitical.** He previously awarded \$1 million to a man whose first amendment rights were violated by former Sheriff Tracy ordering two deputies to block his access to speak on KSCO radio. We are told that Sheriff Tracy had to resign for this violation of the First Amendment.

*The couple stated they will vigorously pursue justice and compensation for damages. County group collusion against property owners for decades has been uncovered. Hard evidence has been collected, witnesses located and Defendant depositions will begin by summer. Note the [Grand Jury Report stating Code Compliance does not enforce regarding fences](#). Quite the contrary and major cause of this lawsuit with great violations of civil rights. Read the case below.*

December 12, 2008 - An **Appealgate** landmark lawsuit naming **Tom Burns**, Planning Dept. Director, the County of Santa Cruz and all Supervisors, Chair **Ellen Pirie, Jan Beautz, Tony Campos, Neil Coonerty** and **Mark Stone**, three of whom are lawyers, was filed yesterday at Superior Court. The Notice of Motion to Amend Petition and Complaint clearly describes three years of severe abuses and willful disregard of law pertaining to a rural private dead-end road setback fence that does not require a permit in the first place. The agriculturally zoned property is exempt for fences up to ten feet in height and no restrictions for vegetation up to the road edge, not being along a highway. In addition,

**severe intimidations by Supervisor, Ellen Pirie** to the couple were made. Pirie threatened they take the less restrictive permit (that violates State code and State and Federal constitutions) or get an attorney. What **Ellen Pirie** and the uncertified planning director, **Tom Burns**, and staff should have done was declare no permit was required according to existing State code, the constitutions and local ordinances, or at least inform the couple that they could appeal to the Building and Fire Code Board of Appeals Commission previously established in 1976 by the Board of Supervisors. However, why have the Supervisors and Planning Department, with County Counsel blessing, concealed the Appeals Commission for 32 years . . . . to defraud the public?

Uncovered in the process was a 33 year multi-department obstruction and hiding of the State mandated Housing and Local Appeals Boards. These Boards are designed to provide due process for citizens to access for any adverse issues with the county planning department. The Amended Complaint lays out how the County does not have the authority to issue red tags, record them to title and cannot use [uncertified and untrained personnel](#). The 32 year scandal may have cost property owners approximately \$500 million or more in unreasonable fees, costs and land takings without compensation, since 1976. Read the Amended Complaint of this courageous couple standing up for their rights, and all property owners' rights, by exposing and squashing the **biggest County corruption scandal ever to hit Santa Cruz County**. The city of Santa Cruz has a Building Appeals Board and a certified building official.

**Ellen Pirie, District 2 Supervisor and Chair for 2008**, letter to Aptos Couple after two private meetings with their engineer present.

1. Note how she does not offer that an appeal can be made to the (on paper only and vacant) **Building and Fire Code Board of Appeals Commission** for the adverse decisions, determinations and orders made by her Planning Dept-. per her own set of ordinances to deny citizens due process guaranteed by the Constitutions.
2. Note how she does not offer two local ordinances of hers that do not require permits and persists on intimidation to take the less onerous permit #1 or get a lawyer.
3. Note how she does not offer **State Uniform Building Codes and Health & Safety codes** that exempt the fence requested.
4. Note how she does not recognize that the RA residential agricultural zoning is exempt from county jurisdiction regarding vegetation height limits or distance from private, wide, rural dead end roads.

This letter by **Ellen Pirie, Supervisor**, conveys her breach of her oath of office and violation of her mandatory duties. Other citizens in her district also have not received any assistance and a customary practice has developed in our investigation. [Read page one of Pirie Letter](#). [Read page two of Pirie letter](#).

**COURT FILINGS: APTOS COUPLE UNCOVER “APPEALGATE” OVER FENCE FEUD v COUNTY GOVERNMENT SCHEME**

[Amended Petition and Complaint Points and Authorities for Motion](#) (this file takes a few minutes to download)

[Previous Opposition to County's Demurrer - Aptos Couple Prevails](#) (this file takes a minute to download)

**[Grand Jury Report States Code Compliance Does Not Enforce Fences](#)**

Opposition to the County's unfounded Motion to Dismiss naming Supervisors was filed electronically on March 6, 2009. County replies March 9, 2009 *with untruthful and misleading statements.*

**[Plaintiffs' Opposition to Motion to Dismiss](#) March 6, 2009**

**[County's reply to Opposition to Motion of Dismiss](#) March 9, 2009**

**[Federal Order Granting Plaintiff's Opposition](#) May 15, 2009**

**[Plaintiff's Second Amended Complaint per Federal Order](#) June 15, 2009**