

NEWMeyer & DILLION LLP

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MAJOR VICTORY FOR HOMEOWNERS AND DEVELOPER AFFIRMED IN LANDSLIDE CASE

City of Anaheim Liable in \$20 Million Slope-Failure Verdict Resulting from Leaking Reservoir

NEWPORT BEACH, Calif. — The jury verdict in excess of \$20 million against the City of Anaheim and in favor of 22 homeowners and developer 396 Investment Company (formerly known as The Fieldstone Company) is now final as the California Supreme Court last week declined to review a last appeal by the City of Anaheim. Greg Dillion and Joe Ferrentino of Newport Beach-based Newmeyer & Dillion LLP were lead counsel for the prevailing parties.

The rare large judgment against a municipality for construction-related issues arose out of a trial for damages caused by the leaking 60 million-gallon Olive Hills reservoir owned and operated by the city of Anaheim. The suit claimed that the slope failure was caused by the leaking reservoir — with a seepage rate of more than 34 million gallons per year — resulting in significant damage to numerous surrounding residential properties that were located in the city of Orange.

The property owners filed 22 separate lawsuits against 396 Investment Co., which built the Vista Royale home development, as well as other parties, including the cities of Anaheim and Orange. During the course of the litigation, 396 Investment Co. and its insurers took extraordinary steps to assist the homeowners by, among other actions, paying equity, guaranteeing mortgages, and renegotiating payoffs, while also voluntarily undertaking certain remedial measures to stabilize the slope. The 396 Investment Co. in turn, sued Anaheim to recover its out-of-pocket expenditures related to those efforts.

VICTORY AFFIRMS AWARD IN \$25 MILLION LANDSLIDE CASE AGAINST CITY OF ANAHEIM

Page 2

“We are grateful that the courts have vindicated the developer for doing right by the homeowners and put cities on notice that they need to take seriously their public safety responsibilities,” said Dillion, co-founding partner of the law firm.

A two-phase jury trial — the first ending in June 2001 and the second in March 2002 — resulted in a verdict in favor of the plaintiff. Despite exhaustive briefing by Anaheim, which included hundreds of pages of argument and a “plethora of [claimed] errors,” the Court of Appeal, in upholding the judgment, observed that Anaheim’s arguments “d[id] not hold water.” The Supreme Court agreed.

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Founded in 1984, Newmeyer & Dillion LLP is the fifth largest Orange County-based law firm. With offices in Newport Beach, Santa Monica and Walnut Creek, there are more than 50 lawyers handling business, real estate and financial services matters. More information is available at www.newmeyeranddillion.com.