

Developer Gets \$5 Million Verdict

By Jason W. Armstrong

Mega residential developer SunCal Companies won nearly \$5 million in damages against a pair of entities it accused of renegeing on an agreement for a \$12.5 million land sale because the property value later jumped more than three times that amount during the real estate boom.

The Riverside County Superior Court jury found that owners of the 628 acres in Thermal at the center of the case unjustifiably broke a contract to sell the land to SunCal in 2006. The owners are Golden Acre Farms Inc. and Jacqueline M. Eston and Ulla Jaeger Petersen, co-trustees of the Jesper Petersen Revocable Trust.

The case comes as developers statewide are grappling with plummeting profits and dried-up projects in the wake of the real estate bust. SunCal has been working to pull developments out of bankruptcy and has been battling in court with Lehman Brothers Holdings Inc. over financing on projects.

In the legal spat involving the property in Thermal, an agricultural area near La Quinta in the eastern Coachella Valley, SunCal contended an affiliate contracted to buy the property in 2003 for \$12.5 million with a provision that the deal would close by May 2006.

But the owners later gave SunCal "frivolous excuses" and refused to comply with the escrow process for the sale, the developer contended, because the property value had jumped to more than \$40 million.

Golden Acre, SunCal said in its suit, acted "in bad faith" and tried to "extract a higher purchase price than agreed to by the parties."

Skip Miller, a name partner with Miller Barondess LLP in Los Angeles who represents SunCal, said the jury's award was a great result for the developer.

"With interest, it will be over \$7 million," Miller said. "That's pretty big these days for a land case."

Miller noted that the case was the first jury trial for his law partner who tried it, Brian Procel.

"I'm very proud of Brian - he went up against very seasoned opposing counsel," Miller said.

Frederic L. Gordon, a name partner with Gordon & Holmes LLP in San Diego who represents Eston and Petersen, said he would probably appeal the case. The jury, he said, didn't believe the property value increased as much as the plaintiffs alleged.

Gordon said he planned to take up several issues with the court in post-trial motions, including allegations that the contract was void and "never should have been in front of a trier of fact at all."

Miller said Gordon had unsuccessfully waged similar legal arguments.

"The jury has spoken, and the case is over," he said.

Joseph A. Gibbs, name partner with Joseph A. Gibbs & Associates in Indian Wells, attorney for Golden Acre Farms, could not be reached for comment by press time.

The verdict came down April 13 in the courtroom of Judge John G. Evans. *SCC Acquisitions Inc v. Eston*, INC057703 (Riverside County Super. Ct., filed 2006)