

# NEWS

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## Judge OKs district's effort to recover Colonies settlement

A judge today ruled that the County of San Bernardino Flood Control District can proceed with its effort to be reimbursed \$102 million for a settlement reached in 2006 with the developer of the Colonies Crossroads project in Upland.

The district is suing Caltrans, the City of Upland, and San Bernardino Associated Governments, claiming they are responsible for the actions that led to the district's settlement with the developer and must pay at least that sum to the district.

The defendants made an attempt to block the case by claiming the district's case is inadequate. Today, however, San Diego County Superior Court Judge Jay M. Bloom upheld a tentative ruling he had issued yesterday stating that the district's complaint "adequately alleges facts to support he causes of action."

"The circumstances that led to this payout were created by the defendants," said Second District Supervisor Paul Biane. "It isn't fair to the citizens who rely on the services of the Flood Control District to have those services hampered by this burden. This lawsuit will remedy this situation."

The case is scheduled to go to trial in January 2010. The courts moved the case to San Diego County to ensure an impartial jury.

The November 2006 settlement between the Flood Control District and the developer resolved lawsuits in which the developer sought compensation for the effect a flood control project had on its property.

That flood control project was the 20th Street Storm Drain, which was a joint effort by Caltrans, Upland, and SANBAG to protect the newly built extension of the 210 Freeway in Upland.

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**Judge's Decision**

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The storm drain was designed to discharge water onto the developer's property, reducing the amount of property it could develop and delaying development of adjacent property. Upland also imposed an emergency action plan that required the developer to construct flood control improvements.

The Flood Control District's involvement with the 20th Street Storm Drain was simply serving as the project's construction manager at the defendants' request. The Flood Control District had no obligation to provide flood control improvements for the 210 extension.

The 20th Street Storm Drain and the 210 Freeway extension created clear benefits for Caltrans, Upland, and SANBAG. However, the defendants deflected their liability for the project onto the Flood Control District. For instance, they acquired land from the developer for the freeway, but did not pay the developer for the land necessary to accommodate the substantial discharges from the storm drain.

In the summer of 2007, the district received a \$9.5 million settlement with one of its insurers, and continues to pursue other insurance recoveries as well.