

Can your client rely upon what he is told by a county planning department representative? Absolutely not! In a recent case out of Benton County, Oregon, *Wild Rose Ranch Enterprises, LLC. Vs. Benton County*, a property owner suffered a \$185,000.00 loss, plus the cost of a lawsuit and an appeal, by relying upon such advice.

In this case, Wild Rose had purchased land which had an aggregate mineral deposit located on it, but the purchase specifically excluded the mineral rights. When approached by a company interested in purchasing aggregate, Wild Rose contacted the planning department to inquire whether the mining of aggregate required a conditional use permit. They were told that no CUP was required.

In reliance upon that advice, Wild Rose purchased the mineral rights for \$125,000.00 cash, and signed a mining agreement with the contractor. Wild Rose anticipated a \$60,000.00 profit on the deal. But as soon as the work began, the county planning department shut them down until a CUP was obtained. Wild Rose applied for the permit and the application was denied.

Wild Rose sued the county for damages, and both LCDC (Dick Benner) and the State Department of Forestry intervened. The case made it to a jury at the trial court level, where Wild Rose won, and received a \$163,866.10 judgment. The Court of Appeals reversed, ruling that the county had no obligation to Wild Rose.

On a local note, this case includes an extensive discussion of a Hood River case, *Indian Creek Development Co. vs. City of Hood River*. This was the case where the developer was told, erroneously, by the city that in order to develop the lots, the buyers would have to pay the entire cost of improving a nearby intersection with a traffic light. Indian Creek lost sales due to this misinformation, sued the city and lost.

What is the lesson here? The lesson is that you should involve a competent legal professional in your real estate development project. If Wild Rose had obtained competent legal advice, this fiasco would have been avoided. But even if it got BAD LEGAL ADVICE, and proceeded as it did based on that advice, the chances are very good that a recovery would have been obtained - against the attorney's malpractice carrier!

To locate a competent legal professional for assistance with your real estate needs, go to our website at <[www.gorgelaw.com](http://www.gorgelaw.com)>.