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## ***Raising a Bar***

**By Suzy Hagstrom**

Years ago, when a high school friend talked about wanting to become a lawyer, Susan Brandt-Hawley, an aspiring writer, thought, "How dull."

Yet, after graduating Phi Beta Kappa from San Diego State University in 1974, Brandt-Hawley realized lack of life experience might result in writer's block, so she entered law school. At least becoming a lawyer requires writing skills.

Now Brandt-Hawley finds herself at the forefront of a courtroom drama involving millions of public dollars, thousands of baseball fans, and quality of life in downtown San Diego. She represents David, a group of 50 or so San Diegans who are members of Citizens Advocating Redevelopment Excellence (CARE), against a three-headed Goliath: the city of San Diego, its redevelopment agency known as the Centre City Development Corporation (CCDC), and the Padres baseball team.

Last week, a California superior court judge ruled in CARE's favor, concluding the city had broken the law by acquiring and preparing land for a proposed ballpark before completion of an environmental impact report. The judge ordered the city to stop those activities.

Stunned officials for the city and Padres claim they've done nothing illegal, that the CCDC has a right to seize property and upgrade utilities in downtown San Diego's East Village whether or not a ballpark is built. They characterize Judge Judith McConnell's ruling as only a temporary setback. As soon as the environmental impact report is certified on September 10, the CCDC plans to return with more offers to buy property, condemnation notices, and bigger water and sewer pipes. With bulldozers hovering to knock down historic warehouses and with construction crews poised to modify other landmark buildings, the stadium project will be back on track, they insist.

Brandt-Hawley, whose legal career has ascended on public agencies and real estate developers underestimating the power of California's

environmental laws, says CARE's lawsuit isn't about a mere delay. "We want the city to fully explore alternatives," Brandt-Hawley said. "We want the environmental impact report to receive a fair review."

CARE jumped in to sue the city, she explained, because if the CCDC were to continue spending millions of dollars on seizing real estate, installing new utilities for the stadium, and relocating East Village's residents and business owners, the city council would be less likely to consider other locations or superior designs for the ballpark. The expenditure of so much money would lock councilmembers into the Padres' favorite spot, bordered by J Street, Harbor Drive, and Seventh and Eleventh Avenues.

CARE favors shifting the project to vacant lots two blocks east not only to save historic warehouses but also to preserve the character of East Village, a community of artists, produce vendors, and other merchants. The environmental impact report currently under review also describes several other ballpark sites and their effect on the environment.

"The California Environmental Quality Act (CEQA) requires public agencies to adopt feasible alternatives that meet the project goal while reducing environmental impacts," Brandt-Hawley said. "Just because an alternative costs more doesn't make it infeasible. So there's the possibility for some real change here."

Brandt-Hawley ought to know, according to experts in land use. Published court decisions for ten of her cases have set legal precedents, earning her a reputation as one of California's top environmental lawyers.

Over the past 18 years, Brandt-Hawley has worked to protect vernal pools, wetlands, rare wildflowers, redwood trees, spotted owls, rivers, and towns from development. Since saving a one-lane bridge in Northern California's Guerneville from the California Department of Transportation's (Caltrans) wrecking ball in 1988, she has taken on more and more cases involving historic sites. A charming 1905 brick house, which happens to be a registered landmark, serves as the Brandt-Hawley & Zoia law office in tiny Glen Ellen. From that base in scenic Sonoma County, once home to writer Jack London, she and law partner Rose Zoia travel statewide to tackle cases. Brandt-Hawley also lectures statewide about environmental issues, including her growing specialty of saving landmark buildings. "In California, historic preservation isn't just about cathedrals and museums," she said. "It's about movie theaters, bungalows, and department stores."

Passed in 1970, CEQA is relatively new so its application to construction projects has formed an esoteric and rapidly changing field of law. Brandt-Hawley is in the enviable position of winning lawsuits based on precedents established by her earlier victories.

“Susan Brandt-Hawley is synonymous with compliance to CEQA’s mandate to reduce impacts to cultural and historic resources,” said Marianne Greene, an environmental lawyer in San Diego. “She’s prominent in this sub-specialty.”

Greene thinks Brandt-Hawley has a reasonable shot at getting the proposed baseball stadium to budge. “If the city sticks with the Padres’ choice for the ballpark site without seriously considering alternatives that have fewer environmental impacts, it could be exposed to another lawsuit.” Greene is not a member of CARE, but she is concerned that the baseball park could destroy East Village. She often shops for produce at the Farmer’s Bazaar, which is likely to be made part of the stadium. CARE’s current lawsuit involves procedure – that the city proceeded with the ballpark before completion of the report, Greene said. But the next suit could involve substance, whether the city is seriously trying to minimize environmental damage. “Someone else could litigate on the adequacy of the EIR. This doesn’t boil down to a three-month delay.”

Brandt-Hawley’s work to prevent the city of Pasadena from burying a historic Macy’s department store within a larger retail complex gives CARE members cause for optimism. The court recently ruled against the city for having failed to adopt a feasible alternative. Also, her 1997 case involving an old Montgomery Ward department store in downtown Oakland set a precedent that influences how public agencies view and treat historic structures, making them less likely to demolish landmark buildings and replace them with commemorative plaques.

Kevin Johnson, another environmental lawyer in San Diego, is less effusive about CARE’s chances of moving the ballpark. CEQA allows public agencies to make “a statement of overriding considerations,” Johnson said, enabling them to make a choice that’s more damaging to the environment. “They can say, ‘Based on all the considerations, in particular social and economic situations, we can live with the fact we’re not mitigating all the impacts.’ That’s their defense.”

Still, Johnson regards Brandt-Hawley as an outstanding lawyer, a good writer, and a savvy advocate. "The city's task is to convince the public and CARE that they're looking in earnest at the options available for saving as much as the historic resources as possible." That the court concluded the city violated CEQA is no surprise, Johnson said. "This is a lesson a lot of government agencies don't seem to get. It's very common to see big projects being fast-tracked. When they try and cut corners and not examine the true impacts, they get in trouble."

Some San Diego lawyers specializing in eminent domain, particularly those representing East Village property owners, were disappointed by part of Judge McConnell's ruling. While CARE emerged victorious, the people who have already received condemnation notices to vacate their property in 90 days remain in limbo. The judge stopped the clock on the condemnation proceedings rather than rescind those notices. Some lawyers say the judge was probably throwing the city a bone so as not to appear too heavy-handed; because the actions to acquire land were clearly illegal, the property owners would likely win an appeal that would dismiss the condemnations.

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Although San Diego lawyers have consulted Brandt-Hawley on local issues, she had never filed a lawsuit here until some East Village residents contacted her in March. She welcomed the opportunity to try to save some of downtown's historic warehouses, given her ties to San Diego.

The daughter of an Air Force major, Brandt-Hawley moved with her family to numerous communities and had no trouble adjusting to Crawford High School, where she graduated in 1969. The family had moved to the San Diego area permanently in 1967, after Brandt-Hawley's father retired from the military.

While attending law school at the University of California at Davis, Brandt-Hawley found a course on environmental law compelling but settled on another specialty. "I wanted to be a criminal defender. I thought it was a noble area of law, representing the oppressed. I never wanted to be a corporate attorney or an estate planner," Brandt-Hawley said. "Aside from criminal law and family law, so much of legal work is mainly people fighting over money. That didn't interest me very much."

Federal Defenders, Inc. in San Diego hired Brandt-Hawley in 1977, after she passed the California bar examination. Exercising her powers of persuasion early, she cajoled her superiors into sending her to Cuernavaca, Mexico, to learn Spanish so she could better serve her Hispanic clients.

After returning from Mexico, love and marriage lured Brandt-Hawley to Northern California. Her husband, Bill Hawley, is a surfer, poet, and winegrower. They have two sons, Emile and Zane. In the early days of operating Hawley's Random Ridge Winery, the couple crushed grapes by stomping them with their bare feet. Their only source of electricity comes from solar panels, so Brandt-Hawley has a washer and dryer in her law office to do the family's laundry.

Despite her serene and bucolic existence, Brandt-Hawley didn't think about becoming an advocate for the environment when she first hung her shingle in Glen Ellen in 1979. Evolution, not revolution, marks her career as a lawyer. In the beginning, she operated a general practice, serving most clients who walked in the door, handling almost any type of case presented: bankruptcy, divorce, personal injury, drafting wills, business transactions, child custody, and criminal defense.

In her first environmental lawsuit, Brandt-Hawley represented a group of citizens challenging the size of a Hewlett-Packard plant to be built near Sonoma State University. Although she lost the case, Hewlett-Packard ended up building a much smaller facility. Publicity from the monthlong trial in 1982 prompted community activists to contact her about other environmental issues.

Hewlett-Packard's lawyer, Edmund Regalia, worked for the law firm that had written textbooks about California's real estate and environmental laws, but that didn't intimidate Brandt-Hawley. "I thought she had the makings of an excellent attorney. She was thorough and well-organized," recalled Regalia, of Walnut Creek. "Although Susan called herself a beginner, I didn't regard her as a beginner. Since then she has established a solid reputation."

In 1984 some residents of Cloverdale hired Brandt-Hawley to sue their city government for having approved a project without an environmental impact report. Claiming there would be no negative effects, UltraPower had planned to build a wood-burning power plant with a 12-story smokestack downtown. Brandt-Hawley won the case, and UltraPower

abandoned its plans. "Whenever I drive through downtown Cloverdale, I figure no one remembers," she said, "but that's one of the most satisfying cases I've had."

As Brandt-Hawley scored more such victories, she became known as Sonoma County's "dragon slayer," a nickname given her by Helen Libeu, an activist in Santa Rosa. In 1988 Brandt-Hawley decided to concentrate exclusively on environmental law.

Charles "Steve" Crandall, an environmental lawyer in San Diego, said he admires Brandt-Hawley for her success in a field that requires perseverance and personal sacrifice. Typically, such lawyers work on contingency, collecting their pay from the defendants only if they win their case. Citizens groups, such as CARE, usually can't afford to pay much more than their lawyer's traveling expenses, Crandall said. When a group of concerned citizens sues over environmental issues, they're acting as a private general working on the public's behalf to uphold CEQA. They notify the California Attorney General's Office, which once in a blue moon, or once in every 200 cases, might join a suit. Even if the environmental lawyer wins the case, Crandall said, it might take several years to get paid because public agencies and real estate developers often challenge the fees. "This is true public interest work."

If Brandt-Hawley has any regrets about her varied and rewarding career as a lawyer, it's that all the drafting of legal documents leaves her little time for creative writing. "My fantasy now is to take time off and write a book. I am writing a novel very slowly. I feel like I have all these Post-its in the back of my brain. I'd like to get them all written down."