

The San Diego

Union-Tribune

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"Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall."

JUSTICE SANDRA DAY O'CONNOR



"Promoting economic development is a traditional and long-accepted function of government."

JUSTICE JOHN PAUL STEVENS

Developers score in court

'Public use' can be financial as eminent domain evolves

By Greg Moran
STAFF WRITER

The U.S. Supreme Court handed local governments expanded powers yesterday, ruling that public agencies can seize private property and turn it over to private developers in the name of economic development.

The 5-4 decision in the court's most significant land-use case in nearly a half-century, lawyers said. It was a stinging defeat for property rights activists, who warned the ruling would imperil any home or business eyed by powerful private interests and local govern-

ments. "This case says, your home is for sale, whether you know it or not," said Timothy Sandefur, a lawyer with the conservative Pacific Legal Foundation in Sacramento, which participated in the case on behalf of property owners.

But several experts said that may not be the result in San Diego and California, where the state's eminent domain laws require that property can be taken for economic development only after a lengthy process in which the area has been first determined to be "blighted."

Others disagreed, saying that the ruling — which stemmed from a fight between a handful of property owners and the government of the economically battered coastal town of New London, Conn. — will strengthen the

hand of government agencies and developers. "This shifts power to the wealthy and powerful," said Timothy Heller, a lawyer for the Washington, D.C.-based Institute for Justice, which brought the case for the New London landowners.

The ruling has potentially large implications nationally and touches the often emotional issue of private property rights clashing with government powers.

That conflict played out most recently in San Diego in the case of an immigrant owner of a cigar store in the Gaslamp Quarter who resisted the condemnation of his property by the city's redevelopment agency.

The owner lost the battle and has had to

SEE Condemn, A10

San Diego County's red-hot real estate market will bring a much-needed cash infusion to local governments

Tax-revenue windfall

By Lori Weisberg
STAFF WRITER

Thanks to the booming residential real estate market and several major commercial sales, San Diego County can expect a healthy 13.3 percent growth this year in property tax revenues, the highest percentage gain in a quarter century.

The projected revenue increase came as the county assessor's office announced yesterday that the assessed value of property countywide rose last year by \$37.6 billion to a total of \$319.4 billion.

Beyond the surging home sales and commercial transactions, officials pointed to a continued rise in the conversion of apartment buildings into condominiums as one of the reasons for the tax windfall.

As more properties changed hands last year, the assessor revalued them based on current market conditions, leading, in some cases, to meteoric increases in long-held properties.

"You have a perfect storm," said Gregory J. Smith, the county's assessor, recorder and clerk. "You have low interest rates, which means you have a slew of home sales; the market is very hot, there is a lot of remodeling going on; you have new home builders in places like Otay Ranch and San Elijo Hills, and you have a lot of condo conversions and tremendous activity downtown."

The resulting uptick in property tax revenues — the steepest percentage increase since 1980 — will be welcome news to local governments struggling to balance budgets in the face of state budget cuts and increasing demands for services.

"Property tax revenue to the city of San Diego has been very positive in the last couple of years, and it has allowed us to not make as severe cuts," said Ron Villa, financial management director for the city of San Diego, which had to make \$25 million in cuts to balance the budget this year. "But it's not like it's extra money we

SEE Real estate, A10



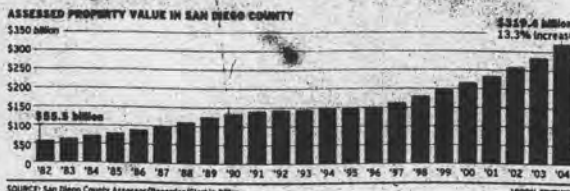
OFFICE BUILDING SALES
The sale of Wells Fargo Plaza last year for \$148.3 million was among several high-profile office building sales that helped boost valuations of property countywide. *Charlie Starr / Union-Tribune*



CONDOMINIUM CONVERSIONS
The recently converted condominium complex on North Johnson Avenue in El Cajon, like many conversions in the county, will produce a tax windfall. *Peggy Postle / Union-Tribune*



SINGLE-FAMILY HOME SALES
Home sales such as this 720-square-foot South Park house that sold for about \$500,000 in August contributed to the rise in assessed property values. *Don Kuhlman / Union-Tribune*



Cunningham says sale 'showed poor judgment'

By Marcus Stern
COPELY NEWS SERVICE

After 11 days of near silence in the face of mounting controversy, Rep. Randy "Duke" Cunningham released a three-page statement yesterday acknowledging that he "showed poor judgment" in selling his Del Mar house to a friend who does business with the government.

The Rancho Santa Fe Republican added that he welcomed "all appropriate investigations" and expressed confidence that they would show he "acted honorably and honestly."

The controversy stems from Cunningham's 2003 sale of his Del Mar house to Mitchell Wade, a Cunningham friend and founder of the Washington, D.C.-based defense contracting company MZM Inc.

Wade put the house back on the market almost immediately after purchasing it. Even though houses in San Diego County were selling quickly and prices were rising at that time, the house stayed on the market for 261 days before selling for \$700,000 less than what Wade paid Cunningham.

Shortly after selling the house, Cunningham purchased a house in Rancho Santa Fe for \$2.55 million.

SEE Cunningham, A16

As contractor's business grew, so did secrecy

By Bruce V. Bigelow
STAFF WRITER

The defense contractor embroiled in controversy over the purchase of Rep. Randy "Duke" Cunningham's Del Mar home has maintained an aura of secrecy as its business boomed during the past three years.

As a privately held company, MZM Inc. is not required to file financial disclosures with government regulators that describe its business operations. The company is based in Washington, D.C., and has made few public pronouncements since it was founded by Mitchell Wade in 1993.

Wade did not return calls for comment made to MZM's headquarters this week.

The company's business began to take off three years ago when it was designated the sole contractor for certain types of Army intelli-

SEE MZM, A16

State high court rules for Coastal Commission

By Terry Rodgers
STAFF WRITER

Surviving the most serious legal challenge of its 33-year history, the California Coastal Commission yesterday won a unanimous state Supreme Court decision upholding the agency's compliance with the state constitution.

The judgment overturns two lower courts' rulings that the commis-

sion, which is part of the executive branch, violates the separation-of-powers doctrine because the Legislature controls a majority of its appointees. The governor appoints four commissioners, while the Assembly speaker and Senate leader each appoint four.

The agency, which oversees development along California's 1,100-mile coastline, has weighed in on numerous cases affecting San Diego County, from the region's lagoons to San Diego's bay-front convention center.

"Needless to say, this decision was huge. We're relieved," said Peter Douglas, the commission's executive director for the past 20 years. "This is a clear, across-the-board victory for California's unique coastal protection program."

The ruling, which cannot be ap-

pealed, ends a six-year legal battle between the commission and the Orange County-based Marine Forest Society (The society — a previously obscure, volunteer-based group — ran afoul of the commission in 1999 when it tried to grow kelp and shellfish off Newport Beach by creating an artificial reef with rope, used tires, plastic jugs

SEE Coastal panel, A14

Horror shows

Scary movies such as "The Shining" (right) and "Laid to Rest," which opens today, are proven moneymakers. *Corvett/Woodard, L1*



In the pipeline

A \$305 million, 11-mile water pipeline will be the largest construction project in the County Water Authority's history. *Loon, B1*

\$60 a barrel

Stocks plunge as oil prices move past the psychologically important \$60-per-barrel level for the first time. *Business, C1*

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► CUNNINGHAM
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Congressman
'saddened by
this distraction'

The congressman, a member of the influential House defense appropriations subcommittee and Permanent Select Committee on Intelligence, said in an interview two weeks ago that he had supported funding requests benefiting MZM.

Cunningham in his statement, also denied any impropriety in being aboard Wade's 42-foot yacht while in Washington.

His ties to Wade are the subject of inquiries by the FBI and a federal grand jury in San Diego.

Since *The San Diego Union-Tribune* disclosed the house sale June 12, real estate professionals have questioned the process Wade and Cunningham used in their private transaction, which involved no real estate agents or marketing.

Congressional ethics experts said the transaction, if not a genuine arms-length deal, could constitute an illegal contribution or bribe.

Yesterday, Cunningham said

that he had done nothing improper.

"I would never put the interests of a friend or a contractor above the interests of my country," he wrote. "I trust the facts will bear out this truth over time."

He added, "I want my constituents to know that, despite my personal friendship with Mr. Wade, I gave his company, MZM, no preferential treatment."

At one point in his statement, Cunningham addressed his constituents in the 50th Congressional District.

"They can be assured that I will continue to defend both my reputation and their interests in Washington," the eight-term congressman said.

His district includes Carlsbad and several North County communities, including Carlsbad, Encinitas, San Marcos and Escondido.

Cunningham declined to divulge details of his financial relationship with Wade, citing an ongoing investigation.

"Because there is now a legal inquiry under way, I do not think it is appropriate for me to publicly address all of the specific questions that may be the subject of that inquiry..." he said. "From this point forward, any further questions should

be directed to my legal counsel."

Cunningham spokesman Mark Glisz said the lawmaker's attorney is Lee Blackack, a partner in the Washington law firm O'Melveny & Meyers Blackack, reached last night, confirmed that he will serve as Cunningham's attorney but declined to comment further.

Cunningham used his statement to offer his most extensive defense yet on his house sale and his relationship with Wade, as well as to deny any improper actions in helping Wade get government contracts.

Much of his statement focused on the sale of his Del Mar house.

"Mr. Wade shared with me that his company hoped to acquire space where he could locate highly secure communications equipment along with quarters for employees visiting from other cities," Cunningham said in the statement. He then told Wade he and his wife wanted to sell their house, according to the statement.

"After learning about the size and location of our property, Mr. Wade advised me that MZM would be interested in purchasing our house. I understood that MZM wanted the property for use as an office and

corporate housing until such time as MZM could locate more secure facilities for its operations at one of the military installations in the San Diego area," Cunningham said.

He added that he believed MZM would continue to use the house for corporate housing even if the company had offices at Miramar Marine Corps Air Station.

Reactor Elizabeth Todd, a Cunningham friend and campaign contributor, set the asking price for the house based on a review of comparable house sales in the area, he said.

"After reviewing the information provided by Ms. Todd, Mr. Wade confirmed that he wanted to purchase our home," he said.

Cunningham said he didn't list the house for sale or hire a real estate agent because Wade had already agreed to buy the house.

"Like most people selling their own home, I hoped to avoid the additional costs associated with selling a house through a broker," he said.

"Again, I recognize that I showed poor judgment in not listing the house publicly for sale. I should have given more thought to the perception that it might create."

However, he added: "I categorically reject any suggestion

that I secured a contract for Mr. Wade's company or that I supported funding for any important human intelligence program because MZM purchased my home in Del Mar Heights."

On his use of Wade's yacht, the lawmaker said he has been living on the boat since April 2004. The yacht is named DukeStir, an apparent play on Cunningham's nickname.

Wade and I agreed that, in return for me staying on the boat, I would pay the monthly dock fees and maintenance costs associated with keeping Mr. Wade's boat at the marina," he said.

Cunningham estimated that he had paid \$8,000 in dock fees and well over \$5,000 for service and maintenance during the 13 months he has lived on the yacht. He indicated the figures are preliminary and that his attorneys are still gathering information.

"There was nothing improper about my arrangement with Mr. Wade because I paid these monthly fees and costs in lieu of rent," he said.

Cunningham had previously suggested he did not have a special relationship with Wade, a *San Diego News Service* reporter asked Cunningham two weeks ago whether he was friends with Wade, he answered, "No

more than I am with (Qualcomm founder) Irwin Jacobs or (Titan Corp. founder) Gene Kay or any of the other CEOs."

He painted a different picture yesterday.

"Mr. Wade and I have been friends for many years and continue to be friends today," he said. "Though I first met Mr. Wade in connection with his work as a defense contractor, Nancy and I came to know Mitch and his wife Christine, my family and I have socialized with the Wades on numerous occasions."

Wade and MZM's political action committee also have been contributors to Cunningham's campaigns. MZM's PAC donated \$17,000 to Cunningham from 2000 to 2004. Donations included \$12,000 to "Friends of Duke Cunningham" and \$5,000 to his leadership political action committee, the American Prosperity PAC. Wade donated \$6,000 between 2000 and 2004.

Cunningham gave a brief recitation of his years of service, both in Congress and as a Navy fighter pilot during the Vietnam War. He said he was "deeply saddened by this distraction from my regular duties."

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► MZM CONTINUED FROM PAGE A1 Company listed at No. 100 in federal prime contractors

although FSI shows MZM also filled orders for office equipment and computer systems design services.

Under one key program, MZM established a computerized data center for the Army National Ground Intelligence Center near Charlottesville, Va. The company subsequently joined the Charlottesville Regional Chamber of Commerce, but the chamber's director of member services could not remember MZM officials participating in any of the chamber's networking opportunities.

"They are members, but I don't know them personally," said Larry Bauner, a chamber vice president.

MZM also has done work for the U.S. Army Intelligence and Security Command at Fort Belvoir, Va., and for the Counter Intelligence Field Activity, a highly secretive program created in response to the Sept. 11, 2001, terrorist attacks.

MZM may have been in a position to win such important intelligence work in part because of the credentials of James C. King, a senior vice president at MZM.

King, 58, retired in 2001 as an Army lieutenant general after spending most of his 33 years in military intelligence. King established the National Imaging and Mapping Agency in Bethesda, Md.

Recruiting top military and government officials into the senior ranks of defense contractors is a common practice, said John Pike, director of GlobalSecurity.org, a Web-based institute focused on defense, aerospace and national security issues.

"The notion that you would get former senior military people so they could help you get business... and that companies would make political contributions and get things earmarked for them is normal," Pike said. "That's how you get things done in this town."

Information gleaned from the federal government's Central Contractor Registration indicates that MZM usually operates as a consultant.

MZM's registration data, which all federal contractors are required to file, says the company provides services as a marketing consultant and administrative management and general management consulting services. Wade, the company's founder, is listed as the chief point of contact in all categories.

Documents detailing federal campaign contributions made through MZM's political action committee also indicated that Wade's 42-year-old brother, Gregory, works in San Diego as a project director for the company.

Gregory Wade declined to comment yesterday except to say he no longer works for MZM.

Records in Gregory Wade's 2002 divorce, filed in San Diego Superior Court, show that he reported income of \$13,630 in the 12 months prior to his divorce. He worked for MZM for seven of the 12 months, according to the records.

(He is not to be confused with Greg V. Wade, who is the company's development director for Imperial Beach.)

Staff Writers Pavel Chabree and David Washburn contributed to this report.

Cunningham to charity a

By Jerry Kammer
COPY NEWS SERVICE

WASHINGTON — Rep. Randy "Duke" Cunningham's ties to a charitable foundation started by defense contractor Mitchell Wade and his wife are under attack by a public-interest watchdog group in Washington, D.C., and a political rival in San Diego.

The charity, the Sure Foundation, is headquartered in the same Washington town house as Wade's defense contracting firm, MZM Inc. Wade's wife, Christine, is the foundation's president, and he is its treasurer. Cunningham's wife, Nancy, and one of his daughters, April, are listed as members of the foundation's advisory board.

"These two men have mixed up their business, social and charitable lives," said Melanie Sloan, executive director of Citizens for Ethics and Responsibility in Washington. "It would be one thing for Mitchell Wade to be Duke Cunningham's good friend, and even for family members to be on the advisory council," she said. But, she added, "it takes on an entirely different cast in light of the fact that Mitchell Wade has business before Duke Cunningham's (congressional) committee."

Cunningham is on the House defense appropriations subcommittee and the Permanent Select Committee on Intelligence, both of which have been crucial panels for Wade in securing government contracts, according to former

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