Judge hears arguments in Homewood development lawsuit

By Denny Walsh, Sacramento Bee

A Sacramento federal judge will decide soon whether public officials who green-lighted a major resort expansion in the Tahoe basin ignored the needs of the environment and the area's residents.

U.S. District Judge William B. Shubb heard five hours of oral arguments Wednesday by attorneys for two groups challenging the development; the Tahoe Regional Planning Agency, which approved the proposed project; a comparatively small, existing ski resort that would be expanded; and a San Francisco-based developer.

The judge took the matter under submission and will issue a written order.

Placer County and its Board of Supervisors, which also approved the proposed project, are named as defendants in the lawsuit, but the county's attorney did not argue.

The plaintiffs are the Sierra Club, a national conservation organization, and Friends of the West Shore, a community organization of more than 500 activists and residents on the West Shore of Lake Tahoe. They contend the supervisors and TRPA's governing board steamrolled the project through the approval process with little or no concern for its effects on the quality of life in the area.

"The suggestion is ludicrous," countered the defendants in court papers. "At every turn, the agencies solicited input. The developer met with the community – including members of both plaintiff organizations – hundreds of times. Formal opportunities for review and comment were generous and vastly exceeded what the law requires."

The project would vastly expand the Homewood Mountain Resort, which has operated since 1962 as a wintertime recreation spot.

The community of Homewood, an upscale enclave of 906 residents on the lake's West Shore, is six miles south of Tahoe City. The ski resort is next to and west of Highway 89, with residential neighborhoods to its north and south.

But the resort is failing, according to the defendants. It has gone in the hole $1 million in each of the last five years, Whitman Manley, a lawyer for the resort owner and the developer, told Shubb.

His clients, Manley said, are pinning their hopes on an expanded facility attracting midweek skiers for more than one day on the slopes. Manley said Homewood is a weekend "commuter" resort because there are no overnight accommodations, so it is unable to compete with other resorts in the lake region.

The plaintiffs, Manley and other defense lawyers argue, are a vocal minority and sore losers in the bruising arena of land use politics.

"Of particular note," defense filings say, "year-round residents of Tahoe's West Shore supported the project as the best prospect for revitalizing a community that is withering away and would be further devastated by the closure" of the ski facility.

The project would hike the resort's size from approximately 25,000 square feet of the mountain to more than 1 million square feet. At its north base area, 14 new structures would go up and house 349 residential and tourist units, including hotel rooms, condominiums and townhouses. Also planned are a commercial area, a four-level parking garage, a ski lodge, an outdoor amphitheater, an ice skating rink, a swimming pool and a miniature golf course. A new day-use lodge would be built at the midmountain base area, along with a gondola terminal and a swimming pool.

The project “will significantly increase urbanization of the region and result in more automobile traffic, increased ozone levels, worse water quality and excessive community noise, but defendants have failed to adequately study and mitigate these impacts,” plaintiffs claim in court filings.

They accuse the defendants of failing to adhere to their environmental review obligations under the terms of the California Environmental Quality Act and the Nevada-California Compact that, along with its implementing regulations, governs the TRPA.

The region “is already violating air quality, water quality, and noise standards, with no workable strategy to correct course and achieve the standards,” the plaintiffs insist.

They do not oppose all development, but wanted the county and TRPA to shrink the project by about a third.

Defendants argue that would not alter environmental impacts “in any material fashion.” It would, however, “gut its economic viability.”

Plaintiffs’ attorney Wendy Park told Shubb on Wednesday that the county and TRPA broke their own procedural rules for processing development proposals in their haste to approve the project.

The developer is stingy with information and the proposal is vague, virtually bereft of details, which make it difficult to evaluate the arguments about how big the project must be and how it will improve the environment, she said.

“We make policy,” TRPA attorney Andrew Sabey told Shubb. “We are empowered to do it. We chose to support this project.”

“They lost this fight,” Sabey said of the plaintiffs. “That doesn’t translate to a viable lawsuit.”