



## Frequently Asked Questions TUSD Grading Permits Lawsuit

3-4-10

**Q: Why is TUSD required to have a grading permit?**

**A:** All developers, public or private, are required to have a grading permit to ensure the protection of the public and adjacent properties regarding proper drainage, soil stability and hydrology. Rancho Santiago Community College and South Orange County Community College, whose building standards are also regulated by DSA (Division of State Architect), complied with the law and received grading permits at Tustin Legacy. Additionally, the County's Tustin Family Campus facility at Tustin Legacy, the new Tustin Library, and Pasadena Avenue Water Well all complied with necessary regulations in order to receive a grading permit.

**Q: Did the District apply for a grading permit?**

**A:** Yes, however, they were advised by the City that some changes were necessary before a permit could be issued. Rather than comply with the changes, the District pulled their plans from the permitting process. Although TUSD states that there were numerous changes required, actually there were only a few which focused on basic technical matters.

**Q: Has TUSD made these changes?**

**A:** No, instead they have filed a lawsuit alleging that they are exempt from having to get a permit.

**Q: Doesn't DSA (Division of State Architect) have jurisdiction over how schools are built?**

**A:** Yes, DSA has full responsibility for reviewing and approving school construction drawings and inspecting construction. The City has jurisdiction over water run-off issues as it is charged with protecting the public and adjacent properties. Because in the Hesperia School District, an improperly graded school site flooded a neighborhood, the legislature passed a law requiring school districts to comply with grading requirements.

**Q: Were the Rancho Santiago Community College and South Orange County Community College Districts, whose building standards are also regulated by DSA (Division of State Architect), required to obtain grading permits and Water Quality Management Plans when building their facilities at Tustin Legacy?**

**A:** Yes, they responsibly obtained proper permits and their school sites are built and being used today.

**Q: Has the City threatened TUSD's contractor with criminal sanctions?**

**A:** No, Barnhart construction was issued a pre-citation letter, which is like a warning ticket. It had been observed that construction equipment and supplies were blocking the sidewalk, putting students and the public at risk.

**Q: Did TUSD obtain permits for schools built in Tustin Ranch?**

**A:** Permits were required. The land for all of the schools built in Tustin Ranch was purchased from The Irvine Company. Before The Irvine Company sold the sites to the District, The Irvine Company graded them per local ordinances, using grading permits obtained from the City of Tustin.

TUSD did apply for and obtain additional permits for various public improvements as indicated below.

<b>School</b>	<b>Date of Permit</b>	<b>Permit Work</b>	<b>Permit Applicant</b>
Ladera Elementary School	2000	Street and Storm Drain	Brock Wagner/TUSD
Pioneer Middle School	1998	Street Improvements	Hillcrest Contractors
Peter's Canyon Elementary School	1996	Street Improvements	Barnhart
Tustin Ranch Elementary	1994	Public Improvements	B and D Construction

Since these schools were built, new regulations were passed by the Regional Water Quality Control Board which now apply to new development.

**Q: Doesn't the City's own code exempt the School District from the grading permit process?**

**A:** No, all property owners, regardless if they are a public or private entity, are required to comply with the City's grading requirements and oversight.

**Q: How has the City offered to assist the District in resolving this issue and making their deadline of March 1?**

**A:** On February 24th, the City Attorney sent a letter to TUSD's lawyer offering to "go hand and hand to the Department of Education and request a temporary extension" or for the District to "submit the remaining information required to issue grading permits" so that the District does not lose the land by not complying with the purported March 1 deadline. However, if the District would have worked within the permitting process required by law, the grading permit would have been issued months ago.

**Q: Why couldn't the City and District work through this issue before the District sued the City?**

**A:** The City has tried to work with the District. It has provided, per the normal course of business, comments on originally submitted plans for a grading permit and participated in several meetings with the representatives from the District over the past several months to try and

resolve the outstanding issues. However, despite the City's best efforts to work cooperatively with the District, the day before the last meeting, unbeknownst to the City, the District hired a lawyer to litigate the issue rather than work it out. The District continues to refuse to comply with the law by submitting the necessary documentation to obtain the required permits.

The District has a history of disregarding City comments and failing to work through issues on schools sites. For example, those who live in Tustin Ranch experience significant traffic circulation issues at area schools because the District failed to work with the City on traffic issues during the planning and building phases.

**Q: Is TUSD in Compliance with Water Management Plans?**

**A:** No, and in fact the District was issued a “Notice of Violation” by the Regional Water Quality Control Board on December 2, 2009 for not having a plan.

**Q: If TUSD fails to comply with the Notice of Violation could it result in fines up to \$10,000 a day?**

**A:** Yes. The Coast Unified School District in Central California was recently fined \$300,000 for not complying with Regional Water Quality Control regulations.

**Q: How is the City of Tustin committed to education in its community?**

**A:** The City's commitment to education takes many forms, including spending hundreds of thousands of dollars a year on educational initiatives which include:

- The land for Heritage School was conveyed at no cost to TUSD through the efforts of the City. Additionally TUSD could receive two additional free sites at Tustin Legacy for future schools subject to a conveyance agreement.

- Joint use of the gym at Columbus Tustin Activity Center. The school uses this facility and the City constructed and maintains it.
- With construction of the new Tustin Library, the City included a large tutorial center for use by students of TUSD.
- Two police officers paid in full by the City are stationed at Tustin schools.
- This year, working cooperatively, the City, TUSD, and Tustin Public Schools Foundation worked jointly and saved the 4<sup>th</sup> and 5<sup>th</sup> grade music program.
- Tustin Parks & Recreation has assumed responsibility for continuing with art and English adult education classes that the District cancelled due to budgetary cuts.
- The City maintains, at its expense, the school crossing guard program.
- The City has provided a new state-of-the-art library building which included a homework center, equipped with computers and Internet access for students.