

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

CALIFORNIA OAK FOUNDATION et al.,

Plaintiffs and Appellants,

v.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA et al.,

Defendants and Respondents.

A122511

(Alameda County Super. Ct.
Nos. RG 06301644, RG 06302967)

**[ORDER MODIFYING OPINION;
NO CHANGE IN JUDGMENT.]**

THE COURT:

It is ordered that the opinion filed herein on September 3, 2010, be modified as follows:

1. On page 6, the following sentence contains a typographical error. The italicized number should be *\$111,948,000*.

“The Committee thereafter adopted a recommendation that the Regents approve the *\$111,948* budget for the Athlete Center, but deferred consideration of the EIR and final approval of the Athlete Center for several weeks. On November 16, 2006, the Regents adopted the Committee’s recommendation.”

This sentence should read:

“The Committee thereafter adopted a recommendation that the Regents approve the \$111,948,000 budget for the Athlete Center, but deferred consideration of the EIR and final approval of the Athlete Center for several weeks. On November 16, 2006, the Regents adopted the Committee’s recommendation.”

2. In footnote 18 on page 24, the opinion states:

“18. We acknowledge the Regents’ additional argument, set forth in their responding brief and reiterated at oral argument, that the Alquist-Priolo Act does not apply to them because it applies only to cities and counties. However, below, the trial court rejected this argument, a decision the Regents have not cross-appealed. As such, the Regents may not challenge the trial court’s decision here. In any event, whether the Alquist-Priolo Act applies to the Regents is purely an academic question for purposes of this appeal, given our conclusion that the Athlete Center is not subject to the Act’s value restriction because it does not qualify as an alteration or addition under the Act.”

We order that the language of footnote 18 be modified as follows, with text to be inserted printed in *italics*, and text to be deleted printed in ~~strikethrough~~:

“18. We acknowledge the Regents’ additional argument, set forth in their responding brief and reiterated at oral argument, that the Alquist-Priolo Act does not apply to them because it applies only to cities and counties. ~~However, below, the trial court rejected this argument, a decision the Regents have not cross-appealed. As such, the Regents may not challenge the trial court’s decision here. In any event,~~ *However*, whether the Alquist-Priolo Act applies to the Regents is purely an academic question for purposes of this appeal, given our conclusion that the Athlete Center is not subject to the Act’s value restriction because it does not qualify as an alteration or addition under the Act.”

3. The Request for Modification of Opinion, filed September 17, 2010, at pages 3-4, asks that the opinion be modified on page 38. This request is denied.
4. The Request for Modification of Opinion, filed September 17, 2010, at pages 5-6, asks that the opinion be modified on pages 38-39. This request is denied.

DATE: _____

McGuiness, P. J.

Justice Jenkins and Justice Siggins concur.

Trial Court:

Alameda County Superior Court

Trial Judge:

Hon. Barbara J. Miller

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Appellants:

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