

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

MUZZY RANCH CO.,

Petitioner and Appellant,

v.

**SOLANO COUNTY AIRPORT LAND
USE COMMISSION,**

Defendant and Respondent.

A104955

**(Solano County
Super. Ct. No. FCS020127)**

The opinion filed January 5, 2005 is modified as follows:

1. On page 4 of the opinion filed January 5, 2005, in the third paragraph (beginning “At issue in this case . . .”), the quotation from Public Utilities Code section 21675, subdivision (a) shall be modified to change the phrase “a comprehensive land use plan” to “an airport land use compatibility plan.” The following footnote shall be added after the citation to Public Utilities Code section 21675, subdivision (a): “Section 21675 was amended in 2004, effective January 1, 2005, to make technical, nonsubstantive changes. (Stats. 2004, ch. 615, § 4; see also Legisl. Counsel’s Digest, § 2, at p. 91.) We quote the current statutory language.”

2. On page 7 of the opinion filed January 5, 2005, in the second paragraph (beginning “The term ‘project’ . . .”), the quotation from Guidelines, title 14, section 15378, subdivision (a)(1) shall be modified to replace the phrase “resulting in a physical change in the environment, directly or ultimately” with the phrase “resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”

3. On page 7 of the opinion filed January 5, 2005, in the third paragraph (beginning “Whether an act constitutes a ‘project’ . . .”), replace the first sentence and citation with the following: “Whether an act constitutes a ‘project’ within the purview of CEQA is an issue of law which can be decided on the undisputed data in the record on appeal and presents no question of deference to agency discretion or review of substantiality of evidence. (*Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal.3d 779, 794-795; *Black Property Owners, supra*, 22 Cal.App.4th at p. 984; see § 21168.5.)”

Respondent’s petition for rehearing filed January 21, 2005 is denied.

The modifications effect no change in the judgment.

Date _____

_____ Acting P.J.