



# Las Virgenes Homeowners Federation, Inc.

Post Office Box 353, Agoura Hills, California 91301



*"The voice and conscience of the Santa Monica Mountains since 1968"*

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## NEWS WATCH

### Calabasas Voters Have A Right To Know...

## HE CAN RUN, BUT HE CAN'T HIDE HIS RECORD

It's a matter of record—Fred Gaines' track record, that is.

Except that voters in Calabasas are still in the dark.

The candidate for Calabasas City Council has elected to build a reputation for representing land developers before the County, the Coastal Commission, the City of Los Angeles and, ultimately, the Court of Appeal.

But, many of the development proposals that Gaines has been hired to defend are already in violation of the planning laws of their community and some are among the most controversial developments proposed in recent years.

Others are attempts to circumvent zoning laws and environmental protections with such claims as "invalidate the Ordinance" and "the new Ordinance inapplicable."<sup>i</sup> Gaines' objective is to beat the system. He applied to the Coastal Commission for example for after-the-fact approval to subdivide on Henry Ridge in the Santa Monica Mountains. Coastal staff recommended denial of the proposed project because it would create, "new development within an environmentally sensitive habitat area (ESHA), in non-compliance with the resource protection policies of the Coastal Act ...increasing density and intensity of use on the site."<sup>ii</sup>

As an organization that has spent 43 years protecting the Santa Monica Mountains, we know full well what Fred Gaines' track record is on behalf of his developer clients. The Federation recognizes the negative impact his efforts of repeatedly challenging and thwarting the laws that protect the environment have had on our mountains and magnificent wild places.

We ask: Why does Mr. Gaines *choose* to fight for the short-term profit needs and greed of his developer clients over the citizens' long term needs for open space, a quality environment and the preservation of our wild and scenic resources for the future?

It's not about an isolated incident but a chosen path....

## **GAINES TRIES AND FAILS TO DEVELOP SIGNIFICANT RIDGELINE**

Calabasas, you can thank the County of Los Angeles for protecting the significant and stunning ridgeline that looms distinctively over your city. It's not just any ridgeline; it's the iconic crest of the Santa Monica Mountains west of Old Topanga known as the Calabasas Peak Motorway. Calabasas Peak is one of the Sierra Club's famous "100 Peaks" beloved by mountaineers.

But if it were up to attorney Fred Gaines, who represented three developers—Sound Garden, LLC, Brown Derby, LLC, and Capital State, LLC—who planned to develop that ridgeline, there would already be mega-Mc Mansions lining the crest and ruining Calabasas residents' view of this scenic mountain resource.

Mr. Gaines didn't just advocate for the above-mentioned clients, he sued the County of Los Angeles *to get around* the County's Grading and Significant Ridgeline Ordinance. Aided by well known pro-development facilitator Don Schmitz, the group also tried to activate expired site plans for the mountaintop. Together they worked at circumventing the County's zoning codes and resource protections, contrary to the law and to the public's best interests.

The County's Grading and Significant Ridgeline Ordinance, adopted in December 2004, dictates that any new construction needs to be 50 lateral feet and 50 vertical feet

below a designated “significant ridgeline” and that any grading exceeding 5,000 cubic yards of total cut plus fill requires a conditional use permit. (The City of Calabasas has since adopted the same significant ridgeline setback restrictions in its Development Code.)

In his lawsuit against the County, Gaines tried to prove that his clients’ parcels were, “*exempt from the Ordinance regulations...*”

The County wasn’t allowing his clients to proceed, Gaines alleged in court documents, “*in order to preserve the Parcels, which are surrounded by public parkland and hiking trails as open space for public use.*”

Wow. That’s an eye opener. Are we to believe that in *Gaines speak*, lawful enforcement of the significant ridgeline ordinance and other planning policies and conditions are actually a ploy to steal his clients’ land? That’s equivalent to a speeding motorist accusing the police of stopping him to confiscate his car!

Do Calabasas residents agree with Gaines and want to help increase profit for developers by circumventing environmental protection laws such as the Significant Ridgeline Ordinance? Do they think that the preservation and public use of open space are bad things? Calabasas is known as the “Gateway to the Santa Monica Mountains National Recreation Area,” so are Gaines’ actions on behalf of developers outside of the city irrelevant? **No!** We know they are relevant because the Calabasas General Plan defines what makes Calabasas a special place—along with its goals and vision for the future. Here are pertinent quotes from the General Plan:

“Calabasas is located in a beautiful natural setting that the community **intends** to protect for the enjoyment of future generations.”

“Maintenance of a high quality of life is dependent upon a high quality environment.”

“The natural environment is the key to Calabasas’ desirability and a critical community asset.”

“Highest priority is placed on protection and stewardship of designated open space and acquisition.”

“Minimize the environmental impacts of development – **including impacts to landscape and viewsheds.**”

“Calabasas’ view of environmental issues **is broad...and extends geographically, and is reflected in the community’s participation in regional planning and visioning programs!**”

Shouldn't Gaines and his clients take responsibility for the real estate investments they make and follow the same laws that everyone else has to abide by – even if that means they make less money? (We wonder how many tax dollars Gaines has cost county and state taxpayers by challenging planning and land-use laws?)

In his petition for writ of mandate and complaint in the Calabasas Motorway case, Gaines alleged that the City of Calabasas, in cahoots with the County, had delayed the approval of a permit for geological testing—a process that typically takes a few weeks—for two months. *“Clearly the County, in concert with the City of Calabasas and the County Board of Supervisors, was engaging in stall tactics,”* it reads.

In the writ, Gaines even cites Maureen Tamuri, the Community Development Director for Calabasas, who reflected in an e-mail, “I can assure you all that we too are concerned...” [about the tactics to skirt ridgeline protections and others].

They attempted to gain easements for access to the Calabasas Peak Motorway properties through **Conservancy parkland!** And through the City of Calabasas **through Mountain Park Estates**—which is gated—and a portion of the **Calabasas Highlands**, which, among other impacts, would have wreaked havoc on the substandard streets in that antiquated subdivision.

Do you think Fred Gaines, now a candidate for City Council, will do an about-face and start instituting protections for environmental or scenic resources if he is elected? We doubt it, given that he doesn't think his clients must abide by laws that are already in place—as he did in the Calabasas Peak Motorway case. Calabasas residents know the Santa Monica Mountains don't stop and start in Calabasas.

Fred Gaines has built a reputation defending developers as clients and arguing on their behalf. He can pick and choose his clients, and he has done exactly that. No one compelled him to do so. He makes choices, and he lives what he believes.

Fortunately, Fred Gaines lost his lawsuit against the County—it was dismissed with prejudice!—and Calabasas residents, at least for the moment, were spared the impact of McMansion-ization of their very significant ridgeline.

**Excerpted from previous issues of our Newsletter and NewsWatch.....**

*These are pictures of the 58 acres of open space and golf course located in Tujunga - Verdugo Hills – that attorney Fred Gaines representing developer, Snowball West Investments, LLP is trying to develop into a dense 229-unit housing tract. (See story below).*



## A FOX IN THE HEN HOUSE?

Calabasas City Council candidate, Fred Gaines, often portrays himself as a steward of the environment. Nothing could be further from the truth. Fred Gaines has a long history of representing developers and controversial projects that have had devastating environmental impacts. Case in point is Mr. Gaines' current efforts to transform 58 acres of beautiful open space and a golf course into a dense housing tract. Located in Tujunga, adjacent to the 210 freeway, the project is within the National Park Service's potential "Rim of the Valley Corridor." Gaines is representing the developer, Snowball West Investments, LLP.

The proposed project is a massive 229-unit housing development with parallel rows of four- and five-bedroom homes. **Gaines contends they [his clients] have a right to build 229 houses on the site and—pending something unforeseen—they plan to do exactly that.** (Visit [www.savethegolfcourse.org](http://www.savethegolfcourse.org) for more comprehensive information and details.)

Gaines and his client are overwhelmingly and fervently opposed by powerful environmental groups, the surrounding community and local politicians.

Los Angeles Councilmember Paul Krekorian said in a recent statement: "I fully support the efforts of Volunteers Organized in Conserving the Environment (VOICE) and the more than two dozen organizations that fight to preserve the Verdugo Hills Golf Course, an important and popular **oasis of open space** and recreational activity in our community. From the 5,000 active and involved VOICE members, to the hundreds of others in the community groups from Sunland-Tujunga to Studio City, **I am proud to stand with such forceful advocates for open-land preservation and believers in positive environmental policy.** Their efforts to save the golf course reflect a community-wide desire to maintain an open and very beautiful area for people to enjoy in an increasingly developed urban region. I will continue the fight ....to preserve this much needed green space in our community."

When you visit the website you will see that much of what Gaines is saying and doing for this developer-client is identical to the shenanigans we often see from him, including his attempts to out-maneuver environmental and zoning laws. For example, Gaines said Snowball West is seeking a *lot line adjustment* that would separate the property into two parts: the hillside areas and the flatter portions of the property. Community members have questioned whether the lot line adjustment is intended to avoid the slope density ordinance instituted by the City of Los Angeles?

At a recent presentation that Gaines gave on behalf of his client, members of the public made a point of saying that the event was, designed to put a human face on Snowball

West Investments, LLP, in order to mute future community opposition....and despite Snowball West's stated willingness to engage the community, their ultimate goal is to develop the property and secure what they call "a reasonable return" on their investment, even if that requires destroying the golf course.

As stated in the Draft Environmental Impact Report, the project would result in:

- significant unavoidable environmental impacts to: scenic vistas, scenic resources, existing visual character, and protected oak and sycamore trees - to name just a few.
- **the removal of 11 sycamores and 85 coast live oaks (and encroachments on 31 more).**
- greatly diminished open space scenic resource with clearing of 14 acres of pristine native habitat, chaparral etc.



The introduction of the urban development proposed by Mr. Gaines' client and the loss of this major open-space resource will compromise the rural character of nearby La Tuna Canyon. La Tuna Canyon retains its rural ambiance because of open space that has already been dedicated in the area.

We strongly recommend you visit these websites and blogs to read about this for yourself and to see Gaines in action. You will discover what this community and these environmental groups are up against in their efforts to preserve this open space and to prevent Mr. Gaines and his client from developing it.

[www.savethegolfcourse.org](http://www.savethegolfcourse.org); [www.fight2savevhgc.wordpress.com](http://www.fight2savevhgc.wordpress.com)

As you can see, what Mr. Gaines does for a living is not opinion; it is fact. He has a track record of looking for ways around environmental protections to benefit his clients and a history of looking for loopholes to circumvent zoning or laws instituted to protect resources.

Do you really think he is going to give up his lucrative client list of developers with deep pockets? Think again. More to come.....

The following is excerpted from [www.fight2savevhgc.wordpress.com](http://www.fight2savevhgc.wordpress.com)

## **Calabasas, You Have A Problem**

Posted on January 9, 2011 by STA



Fred Gaines, the attorney that represents Snowball West Investments in their vehemently opposed efforts to transform the [Verdugo Hills Golf Course](#) into housing, [has announced his candidacy](#) for the Calabasas City Council. He may present himself as an environmental advocate in Calabasas, but he's trying to wreak environmental havoc in Sunland-Tujunga. [Don't buy his lies](#) Calabasas, he's a fox and a developer's best friend trying to get into your hen house.

## **HAVE CHICAGO-STYLE POLITICS COME TO CALABASAS?**

Without considering the effects of their actions on the City as a whole or on their constituents, the members of the Calabasas City Council unanimously endorsed the election of infamous developers' lawyer Fred Gaines to the Council. They also recruited, and then unanimously endorsed Planning Commissioner Martha Fritz to fill the second vacancy on the Council. The vacancies were created by the last-minute withdrawal of Barry Groveman and Dennis Washburn from the race.

In fact, all five council members were in such a rush to endorse that they did so *before* the filing deadline for the March 8 election. Since City Hall is a "no-smoking" facility, we can't accuse the Council of hatching this scheme in a smoke-filled room, but their premature, united action was certainly in the best tradition of Chicago-style politics.

It is one thing for individual Council members to endorse the candidate of their choice, but for *all* members to act in unison and endorse the same two candidates when there were several other well-qualified candidates available smacks of an attempt to rig the election. Why did the Council "jump the gun" and make its unanimous endorsement before most citizens were even aware that there was an election coming up? Why

weren't the Council members willing to give the voters time to judge for themselves after hearing from all the candidates? It is this premature, united action by the Council that is an affront to the intelligence of their constituents and leaves the Council's motives—and judgment—open to question. Many other observers see the hand of Mayor Barry Groveman in this unusual and suspect move.

The Council's endorsement of developers' attorney Fred Gaines is a matter of special concern. It is common knowledge that Gaines makes his livelihood by representing developers before the County, the Coastal Commission and ultimately the Court of Appeal. Further, most of the development proposals that Gaines has been hired to defend were already in violation of the zoning plans of their community and are among the most controversial developments proposed in recent years. These include such projects as Fantasy Island in Triunfo Canyon; Malibu Valley Farms, across the street from King Gillette Ranch; and James Kay's illegal development on Castro Peak. With Gaines' help, Kay, a Las Vegas radio-tower tycoon, fought the National Park Service and the Coastal Commission in an effort to build his hobby ranch and to block public access to a popular hiking and equestrian trail. The *Los Angeles Times* reported Kay's threat to pave nearly a mile of the Backbone Trail, which runs through state and federal parkland: "I intend to pave it like the Ventura Freeway expansion project," he said."

So why is it a problem if a City Council member represents developers for a living? Because the quality of life in Calabasas and the rest of Las Virgenes depends on good planning and controlled, well considered growth, which in turn depends on citizen control of planning and zoning. That's what differentiates us from highly urbanized Valley areas like Canoga Park and Reseda, places that were built out by politicians who were influenced more by the short-term profit needs of their developer clients than by their citizens' long-term needs for open space and a quality environment.

Many of us moved here to escape the traffic, crowded schools, unsightly signage and poorly planned development of the San Fernando Valley, yet Calabasas Council members have decided to throw their support behind a developer's attorney with a track record of representing and supporting some of the worst developers in the area.

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<sup>i</sup> Case No. BS113291

<sup>ii</sup> Coastal Commission Application #4-07-145