

St. Vincent's Catholic School for Boys v. City of San Rafael (2008) 161 Cal.App.4th 989
The St. Vincent's School is located in Marin County at the northern end of the City of San Rafael. It has been the center of a long fight over the urbanization of this high profile site. St Vincent's unsuccessfully sued the City over San Rafael's refusal to amend its general plan to facilitate annexation of the property into the City and its eventual development.

St. Vincent's claimed that since it had been included in the City's prior general plan, then the EIR for the proposed general plan should examine the impacts of removing it. The Court of Appeal disagreed. The City properly analyzed the proposed general plan against existing conditions.

St. Vincent's argued that including it within the general plan was not properly analyzed as an alternative. The Court held that the EIR correctly considered the impacts of alternatives. The No Project alternative was sufficiently described to allow comparison with the proposed general plan.

The Court further held that the City Council's early direction to staff to exclude St Vincent's property from the area to be considered for potential annexation in the draft general plan update was not a "project" subject to CEQA analysis. The direction did not change the status quo in that the property was outside the city limit, nor is there any vested right to annexation.

St Vincent's argued that eliminating its land from future annexation would mean that the development that might have occurred there would instead be built somewhere else. The Court found that the city had adequately addressed the question of "displacement" in the FEIR response. The city showed that the general plan update would provide adequate housing sites to meet projected demand without the need for the units that might have been provided by development of the St Vincent's site. There was no evidence that displacement would occur as suggested by St Vincent's.

The Court of Appeal upheld the trial court's award to the City of its costs for preparing a portion of the record. As allowed under CEQA, St. Vincent's elected to prepare the administrative record for this case. After reviewing the information provided them by the City and finding that it contained few e-mails, St Vincent's asked the City to undertake the lengthy and costly task of searching its computers for any and all e-mails pertinent to the project. On appeal, St. Vincent's argued that the award of costs is barred by the Public Records Act and Code of Civil Procedure.

The Court disagreed. The Court held that CEQA allows the parties to pay for "any reasonable costs or fees imposed for the preparation of the record of proceedings," but also requires that "the party preparing the record shall strive to do so at reasonable cost in light of the scope of the record." (Public Resources Code Section 21167.6) In general, the prevailing party (the City) is awarded costs. Here, the question was whether Section 21167.6 precluded an award of any costs if the plaintiff elected to prepare the record.

St. Vincent's had requested the City to undertake a broad search of its computer files that substantially delayed the trial, but apparently this search did not result in a single e-mail that provided any information that bolstered its claims in the case. The Court complained that St. Vincent's had made its request for e-mails "not because it had identified any 'gaps' in the voluminous planning documents contained in the 20 boxes [of files initially provided by the City], but because it was not satisfied with the number of emails (sic) contained in the 20 boxes."

The Court held that Section 21167.6 obligates those who are preparing the record of proceedings to control costs as well as expedite CEQA litigation. The Court concluded that St. Vincent's had not met this obligation: "Accordingly, we hold that where necessary to preserve the statutory purposes of cost-containment and expediting CEQA litigation, the prevailing party in a CEQA action may recover 'reasonable costs or fees imposed for the preparation' of the record, even if the non-prevailing party elected to prepare the record pursuant to section 21167.6, subdivision (b)(2)."