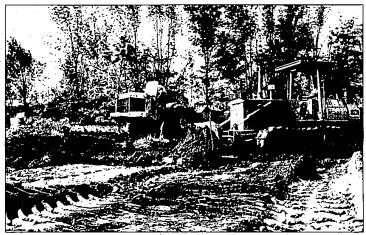
# **Building Scene**

CLASSIFIED ADVERTISING



tenday, January 28, 1991 OAF



## Developers pleased by courts' wetlands rulings

Fact: Within the last two weeks, two Rochester Hills projects involving the destruction of wetlands received favorable rulings from the Oakland County Circuit Court.

Fact: For the Iirst lime, a federal court ordered the Army Curps of Engineers to pay a New Jersey construction company 2.7 million, plus court costs in a nine-year-old case, for an illegal taking of property that deprived him of the site's economic use.

nomic use.

Fact: Throughout the country, relatively insignificant cases involving wetlands violations have turned in favor of builders. Statement: During the latter part of the decade, builders have been constrained from building in wetlands by increasingly harsh federal, state and local regulations. Courts have almost

always sided with the regulations.

Query: Is the environmental movement now losing momen-

tum?
Fact: A federal judge ordered Wall Street trader and developer Paul Tudor Jones II to pay \$1 million in fines, \$1 million in restlution and barred him — an avid duck hunter — from hunting game birds for two years for filling in 86 acres of wet-

Answer: Maybe, maybe not.

WETLANDS ADVOCATES point to these aberrations as iso-lated incidents, builders say they hope courts are finally taking a scrutinizing look at wetlands regulations and are striking down those they find to be unjust. Sharon Nowlen, of the Michigan Department of Natural Re-sources office of litigation, said despite recent isolated wins for builders, she continues to see a growing environmental concern on the part of people.

Just because several cases in Michigan and other states like California and New Jersey have ruled in favor of wetlands filling, does not mean the public resolve — particularly in Michigan — is waning for wetlands protection.

Court rulings that favor wetlands filling are surprising, not the norm, she sold. "I don't see a trent leaning away from wetlands — if anything it's the opposite."

Communities continue to enact local ordinances, the majority of courts continue to levy fines and order wetlands restorations, and the state and the country continue to move toward a no net loss of wetlands policy, she said. "We (in Michigan) will proceed with our policy of creating half a million acres by the turn of the century." she said, referring to a policy established by former Governor James Blanchard.

ATTORNEY DAVID Haywood of the Lansing law firm Miller, Johnson, Snell and Cummiskey, said the recent victories by property owners are long overdue and wellands advocates should take notices don't like to see it but these cases are making law." Haywood represented the Angelo Infrate Construction Co. White May was used by the state for allegedly filling in wettands. "All I can say is, About time," Haywood said. "The agencies (regulating wellands) have gone overboard and gone beyond the original statutory intent."

But it is too early for builders and developers to get excited. Most cases still find in favor of wetlands regulations, he said. "You have to look at these cases on their individual merits—sometimes, there really are violations of reasonable wetlands regulations," he said. It is the unreasonable or vague wetlands regulations, that will be fainting to taking a hard look at these regulations that will be fainting to taking a hard look at these regulations and saying have they regulated the property to the point of taking it (away from the property owner)."

SCOTT JACOBSON, president of S.R. Jacobson Develonment

of taking it (away from the property owner)."

SCOTT JACOBSON, president of S.R. Jacobson Development Corp. in Birmingham and the chairman of the Rochester Hills builders task force, said he is unfamiliar with the particulars of the two Rochester area cases, but has heard of these and other cases which ruled in the favor of builders.
"You knew it would happen eventually," Jaccbson said. Wetlands protection legislation and ordinances springs from two things: an intent to preserve wetlands and efforts to prevent growth, he explained.
Few builders today will argue against protecting wetlands when the intent is to preserve a viable, functional wetland that impacts its environment, he said. Conversely, most builders will argue against wetlands protection schemes disguising unreasonable anti-growth measures. Jacobson said.

Jacobson scill.

Alexandrous unsquising unreasonable anti-growth measures, Jacobson said.

"We just had eight years of sustained economic growth," he said. "Most of the growth eyeles of the past.—at least since World War II.—were only four years."

With eight years of sustained growth, it wouldn't have been hard to predict the anti-growth movement or the wetlands begination designed to half development. Courts are ruing that ordinances written to stop growth are prohibitive.

Irvin Yackness, the executive vice president of the Builders Association of Southeast Michigan, said that to say the state wetlands act is a mess would be a form of flattery.

The Goemere-Anderson Wetlands act never explicitly defines wetlands, he said, so how can builders be charged with violating the law?

## Builders peek at housing's future

Area builders who recently attended the 47th innual convention/exposition of the National As-ociation of Home Builders in Atlanta, Ga., re-urned home with all kinds of impressions and doze

learned officeerman, president of Crosswinds Communities of West Bloomfield, was struck by how good builders have it in the Midwest now compared to their counterparts on the West and East coasts.

James Bonadeo, president of a Plymouth building company and president of the Builders Association of Southeastern Michigan, was impressed with progress on Smart House, a wring system that presents new lifestyte opportunities for homeowners.

Fred Capaldi Jr., president of a Roehester building company, took in seminars on building practices and discovered some updated appliances he will keep in mind for prospective by the product of the formation gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business teeds for finding the product was tracked. In formation gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new appliances like floor plans and elevations when business steeds off. Information gleaned about new despressed maker in the door and a different arrangement of maker in the door and a different arrangement of maker in the door and a different arrangement of maker in the door and a different arrangement of maker in the door and a different arrangement of a le

homeowners:
Fred Capaldi Ir., president of a Rochester building company, took in seminars on building practices and discovered some udpated appliances he will keep in mind for prospective buyers. Gregory Benson, vice president of a Waterford building company, summed up what participation in the convention ultimately means.

Capaldi also was impressed by what he learned at business practice seminars.

"IF NOTHING else, there are things you hear that you say to yourself, 'That's right, I should be doing that,' but you never get around to it." he

For some builders, it may be as simple as streamlining operations and consolidating options like floor plans and elevations when business stacks off.

Information gleaned about new appliances titled.

A SMART HOUSE built in a suburb of Atlanta product."

A SMART HOUSE built in a suburb of Atlanta proved to be the highlight of the show for many company, summed up what participation in the convention ultimately means.

"IN MY OPINION, they (consumers) will get a better product at the same or lower cost."

Robert Jones, a West Bloomfield builder, added. "This NAHB show is the source and resource, and we're the vehicle to bring what's new in the marketplace to our product and consumers here."

Glieberman learned from seminars on financing, that builders should be more concerned now about how they're going to finance projects than how would-be buyers will pay for individual housing purchases.

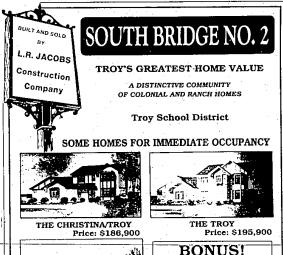
"Builders are going to have to look at other means—private investors, syndicates, insurance companies, pension funds," he said.

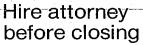
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Capatil also was impressed by what he learned at business rearctice semisers." It gives you a great need to securely.

What jumped out at me was a whole series of seminars and sessions on design, sales and marketing to case consumers' anxiettes.' Jones said "I took my whole organization, and we had a meeting before we went to discuss the types of things we wanted to look for.

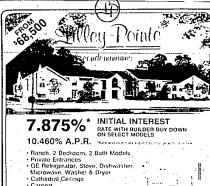




I am interested in buying a condo. A Realtur friend of mine has indicated that we need an attorney for clusing on the side. I amt wondering, when we should hire an attorney us it appears that closing might be too late.

You are currect. Closing is a missomer if it's construed to mean anything more than the actual closing on the sale. The most important time for an attorney to assist a purchaser or seller with respect to the sale of property is at the time when the purchase agreement is negotiated and consummated. It is the purchase agreement that serves to dictate the terms of the agreement between the parties. If the parties are not protected respectively in the purchase agreement, they may well have problems down the coad, including at the closing, while it is good to have an attorney at closing, being better that the property of the purchase agreement becomes binding on either party. Robert M. Mersing it is a firminghum attorney specializing in condominiums, real estate and comporate lane. You are invited to submit topics obout condominiums that you would like to see discussed in this column by uriting Robert M. Mersiner at 30200 Telegraph Road, Suite 407, Hirminghum 8800.

discussed in this column by writing Robe Meisner at 30200 Telegraph Road, Suite Birmingham 48010.



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