



—San Diego Union Staff Photo

Lloyd Lowry, right, Balboa Park superintendent, shows cut eucalyptus trees to Robert L. Bergen, deputy

chief city attorney, left, and Judge Vincent Whelan, center, who denied petition against tree removal.

## Group Loses Fight For Balboa Trees

By HOMER CLANCE

The Balboa Park Protective Association yesterday lost its court fight to preserve a grove of eucalyptus trees in Balboa Park.

Superior Court Judge Vincent A. Whelan denied a petition for a preliminary injunction and dissolved a temporary restraining order he issued Tuesday prohibiting removal of the trees.

"I regret as much as plaintiffs do the destruction of these trees," the judge said, "but all in all, the application must be denied."

Whelan told association representatives in the courtroom the planned destruction of the trees was known as long ago as November, 1961. He said the group should have filed an action for declaratory relief at that time.

His ruling came about 5 p.m. after hearing arguments and inspecting the trees at the site where the West Wing of the Fine Arts Gallery is to be built.

"Frankly, I don't think that equity calls for the court to halt plans for construction of the building, as planned and designed, at the very last moment."

"I would not be warranted in interfering at this late date."

Robert L. Bergen, chief deputy city attorney, had argued the west wing construction is advantageous and necessary to the citizens of the city.

He also said the city stands

to lose a federal grant of \$804,000 toward the \$1.6 million cost of the wing if construction is delayed.

The city on Feb. 4 awarded a \$2,500 contract to El Cajon Tree Surgery to remove the 60 trees, and 25 were demolished before the restraining order was served on city officials Tuesday.

A second contract for \$8,585 was awarded Feb. 6 to Waco Services, Inc., to tear down the old Medical Arts Building, where the west wing will rise.

Whelan praised the association and its members and commended them for their work to preserve the trees. "Every tree that can be saved should be saved," he said.

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