

**Department 29  
Superior Court of California  
County of Sacramento  
720 Ninth Street  
Timothy M. Frawley, Judge  
Frank Temmerman, Clerk**

**Hearing: Friday, May 3, 2013, 10:00 a.m.**

<b>CITY OF PETALUMA, et al.</b>  v.  <b>ANA MATOSANTOS, et al.</b> <hr/> <b>SONOMA COUNTY TRANSPORTATION AUTHORITY, et al.</b>	<b>Case Number: 34-2012-80001321</b>
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**Proceedings: Petition for Writ of Mandate**

**Filed By: Eric Danly, Deborah Fox, and Dante Foronda, of Meyers,  
Nave, Riback, Silver & Wilson, Attorneys for Petitioners**

On May 2, 2013, the court issued a tentative ruling in the above-entitled proceeding. On Friday, May 3, 2013, at 10:00 a.m., the matter came on for hearing with counsel present as indicated on the record. The matter was argued and submitted. Having taken the matter under submission, the court now affirms its tentative ruling, with minor modifications to footnote 3, as set forth below.

**RULING UNDER SUBMISSION**

In this writ proceeding, Petitioners City of Petaluma (City) and the Successor Agency to the Petaluma Community Development Commission (Successor Agency) challenge a determination by the Department of Finance disallowing items on the Successor Agency's Recognized Obligation Payment Schedule (ROPS). At issue is whether several agreements relating to highway infrastructure projects executed between the City and various third parties are "enforceable obligations" of the Successor Agency. The Court shall conclude they are not, and therefore deny the petition.

Background Facts and Procedure

In the aftermath of World War II, the California Legislature enacted the Community Redevelopment Law authorizing cities and counties to establish

redevelopment agencies to remediate urban decay and revitalize blighted communities through redevelopment plans. (*California Redevelopment Assoc. v. Matosantos* (2011) 53 Cal.4th 231, 246.)

Section 33445 of the Community Redevelopment Law specifically authorizes a redevelopment agency, with the consent of the legislative body that formed it, to pay all or part of the construction cost and land value of publicly-owned buildings, facilities, or other improvements, provided certain findings are made. (Cal. Health & Saf. Code § 33445.)

Petitioners claim that in accordance with section 33445, the City's former redevelopment agency (the Petaluma Community Development Commission, or the "PCDC") committed, with the City's consent, to provide \$19 million for two highway infrastructure projects. Specifically, Petitioners claim that in 2007 the PCDC committed to provide \$15 million to the Old Redwood Highway Interchange Project; and that in 2005 and again in 2009 the PCDC committed to provide \$4 million to the East Washington/Highway 101 Interchange Project.

Petitioners further claim that in reliance on the PCDC's funding commitment, the City entered into several agreements with third parties to perform specific tasks related to the highway infrastructure projects. For the Old Redwood Highway Project, the City entered into (1) a Cooperative Agreement with Caltrans, dated May 19, 2010; (2) two agreements for professional design services with URS Corp., dated June 27, 2007, and March 16, 2009; and (3) a Cooperative Agreement with the Sonoma County Transportation Authority, dated May 7, 2010. For the East Washington/Hwy 101 Project, the City entered into (1) a Cooperative Agreement with Caltrans, dated June 3, 2009; (2) an agreement for professional design services with URS Corp., dated May 26, 2009; (3) an agreement for property acquisition services with Associated Right of Way Services, dated March 16, 2007; (4) a Cooperative Agreement with the Sonoma County Transportation Authority, dated October 26, 2009.

In June of 2011 the Legislature enacted AB 1X 26 (AB 26), which eliminated redevelopment agencies and specified a process for the orderly wind down of their affairs. The California Supreme Court upheld the constitutionality of AB 26 on December 29, 2011, and the law's provisions went into full effect on February 1, 2012. (*Id.* at p.276.) In June of 2012, the Legislature adopted AB1484 to modify and "clean up" the provisions in AB 26. Together, AB 26 and AB 1484 constitute the "Dissolution Law."

While the enactment of the Dissolution Law was intended to eliminate redevelopment agencies in California, the Dissolution Law was not intended to impair the former redevelopment agencies' existing enforceable obligations. Thus, as part of the wind-down process, the Dissolution Law establishes "successor agencies" and specifies a process to assure the payment/performance of the former redevelopment agencies' "enforceable

obligations."<sup>1</sup> (See Cal. Health & Saf. Code §§ 34167, 34169, 34177; see also Cal. Health & Saf. Code § 34182.)

In general, the Dissolution Law requires each successor agency to prepare on a semi-annual basis a "Recognized Obligation Payment Schedule" (or ROPS). The ROPS lists the "enforceable obligations" of the former redevelopment agency that will come due over the succeeding six month period. (Cal. Health & Saf. Code § 34177.) After the ROPS is complete, the successor agency must submit it for approval to the successor agency's "oversight board," which is given authority to approve or disapprove each recognized obligation. Once an oversight board either approves or disapproves a ROPS, the Department of Finance may then undertake its own review of the oversight board's action. (Cal. Health & Saf. Code §§ 34177, 34179(h).)

The first ROPS covered the six-month period ending on June 30, 2012. The successor agency is required to prepare a separate ROPS for each six-month period thereafter until the former redevelopment agency's enforceable obligations are paid off or retired.

After the adoption of the Dissolution Law, Petitioner Successor Agency became the "successor agency" to the former PCDC, responsible for winding down the former redevelopment agency's affairs. As the successor agency, it prepared and adopted ROPS for the period January 1 – June 30, 2012 (ROPS I), for the period July 1 – December 31, 2012 (ROPS II), and for the period January 1 – June 30, 2013 (ROPS III).

All three ROPS listed agreements executed between the City and various third parties relating to the Old Redwood Highway and East Washington/Hwy 101 Projects.<sup>2</sup> The Successor Agency's Oversight Board adopted resolutions approving the ROPS and the Successor Agency thereafter submitted the ROPS to the Department of Finance for review and approval.

In regard to ROPS I and ROPS II the Department of Finance rejected the agreements with the Sonoma County Transportation Authority, because the PCDC was not a party to the agreements and the agreements were not in place

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<sup>1</sup> The Dissolution Law broadly defines the term "enforceable obligations" to include bonds, loans, judgments, and any legally binding and enforceable contract or agreement that is not otherwise void as violating the debt limit or public policy, entered into prior to the effective date of AB 26. (Cal. Health & Saf. Code § 34171(d).)

<sup>2</sup> In particular, ROPS I listed a June 27, 2003, design consulting contract with URS Corp.; a March 16, 2007, consulting agreement with Associated Right of Way Services; a May 26, 2009, consulting agreement with URS Corp.; and a June 3, 2009, agreement with the Sonoma County Transportation Authority; and two November 15, 2011, agreements with the Sonoma County Transportation Authority. ROPS II was the same as ROPS I, except that it listed only one November 15, 2011, agreement with the Sonoma County Transportation Authority. ROPS III was the same as ROPS I and II, except that it listed a May 7, 2010, agreement with the Sonoma County Transportation Authority, and did not list any November 15, 2011, agreements with that agency.

prior to June 27, 2011. The Department apparently did not dispute the consulting agreements with URS Corp. and Associated Right of Way Services. (Respondent contends that due to time constraints the Department may not have reviewed the consulting agreements with URS Corp. and Associated Right of Way Services.)

In regard to ROPS III, the Department rejected all of the third party agreements related to the interchange projects. It did so because the PCDC was not a party to the agreements and the agreements do not specifically pledge PCDC tax increment.

The Successor Agency protested the Department's rejections, but the Department denied the Successor Agency's protests.

On November 26, 2012, Petitioners filed their Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief. Petitioners seek (1) a declaratory judgment that the Department has misconstrued the definition of an "enforceable obligation" for purposes of the Dissolution Law and therefore improperly rejected the agreements related to the Old Redwood Highway and East Washington/Hwy 101 Projects as "enforceable obligations;" and (2) a writ of mandate directing Respondents to reinstate and recognize the agreements as "enforceable obligations" for purposes of ROPS I, II, and III.

#### Evidentiary Objections & Requests for Judicial Notice

Petitioners have filed a request for judicial notice of three items. The Court grants the request for judicial notice of item 1 (Exhibit A), but denies the request as to items 2 and 3 (Exhibits B and C).

Respondent's objection to the Declaration of John C. Brown is overruled.

#### Discussion

The question presented in this writ proceeding concerns whether the third party agreements relating to the highway interchange projects, which the City entered into in reliance on the former redevelopment agency's commitment to fund the projects, are "enforceable obligations" of the former redevelopment agency.

The Department determined the agreements are not "enforceable obligations" of the former redevelopment agency because agreements were executed between the City and various third parties and the former redevelopment agency was not a party to the agreements.

Petitioners concede that the agreements at issue are obligations of the City, not of the former redevelopment agency. Nevertheless, Petitioners contend that the Department's position is not supported by the language of the Dissolution Law.

Petitioners argue that under the Dissolution Law an "enforceable obligation" is defined to include "[a]ny legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy." (Cal. Health & Saf. Code § 34171.) Petitioners argue that there is no requirement that the redevelopment agency be a party to the contract. The agreements at issue here are legally binding and enforceable agreements which the City entered into based on the PCDC's funding commitments. Thus, even though the former redevelopment agency is not a party to those agreements, Petitioners contend the agreements are "enforceable obligations" of the former redevelopment agency.

The Department responds that the statutory definition of "enforceable obligations," when construed in context, plainly refers only to obligations *of the former redevelopment agency*, and not the obligations of third parties. Accordingly, only an obligation of a former redevelopment agency may be deemed an enforceable obligation for purposes of the Dissolution Law.

The Court agrees with the Department. When read in context, the Court has no doubt that the definition of "enforceable obligation" was intended to reach only obligations incurred by redevelopment agencies prior to their dissolution. (See Cal. Health & Saf. Code §§ 34171(d)(1) [defining enforceable obligation to include bonds of the former redevelopment agency, loans borrowed by the redevelopment agency, judgment/settlements against the former redevelopment agency], 34177(h) [successor agencies are required to wind down the affairs of the former redevelopment agency], 34177(l) [ROPS is prepared "by the successor agency for the enforceable obligations of the former redevelopment agency"], 34179.5 [enforceable obligation includes contracts entered into by the former redevelopment agency]; see also Cal. Health & Saf. Code §§ 34167(a); AB 26 § 1(j)(2) [intent of legislature to allocate property tax revenues to successor agencies for making payments on debts incurred by the former redevelopment agencies].)

As Petitioners concede, the agreements at issue are obligations of the City, not of the former redevelopment agency.<sup>3</sup> Thus, the Department correctly determined that the agreements are not enforceable obligations for purposes of the Dissolution Law.

#### Disposition

The Court shall enter a judgment denying the petition, and declaring that the Department's interpretation of the definition of "enforceable obligation" as limited

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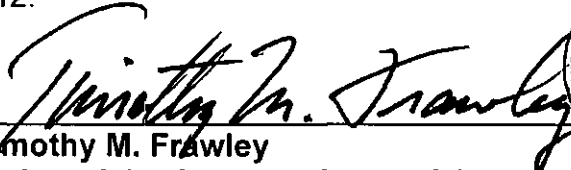
<sup>3</sup> Petitioners do not argue that the Resolutions adopted by PCDC pursuant to section 33445 constitute enforceable obligations owed to the City, and this claim has never been made on a ROPS. (See Reply, p.3.) Thus, this issue is not ripe and not before the Court in this action.

to the enforceable obligations of the former redevelopment agency is consistent with the requirements of the Dissolution Law.

Respondents shall be entitled to recover any fees waived pursuant to California Government Code section 6103. When collected, those amounts shall be due and payable to the Clerk of the Court pursuant to California Government Code section 6103.5. If the judgment consists only of the amount of the filing fee, it shall be at Respondents' discretion whether to seek collection. If Respondents determine not to seek collection of the filing fee, they shall so notify the clerk.

Counsel for Respondent is directed to prepare a formal judgment, incorporating this ruling as an exhibit; submit it to opposing counsel for approval as to form; and thereafter submit it to the court for signature and entry of judgment in accordance with Rule of Court 3.1312.

Date: May 14, 2013

  
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**Timothy M. Frawley**  
**Judge of the Superior Court of California**  
**County of Sacramento**



**CERTIFICATE OF SERVICE BY MAILING**  
**(C.C.P. Sec. 1013a(4))**

I, the Clerk of the Superior Court of California, County of Sacramento, certify that I am not a party to this cause, and on the date shown below I served the foregoing RULING by depositing true copies thereof, enclosed in separate, sealed envelopes with the postage fully prepaid, in the United States Mail at Sacramento, California, each of which envelopes was addressed to:

Dante Foronda  
Meyers Nave  
555 12<sup>th</sup> Street, Ste. 1500  
Oakland, CA 94607

Robin Paige Donoghue  
Meyers Nave  
401 Mendocino Ave., Ste. 100  
Santa Rosa, CA 95401

George Waters  
Deputy Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814

I, the undersigned deputy clerk, declare under penalty of perjury that the foregoing is true and correct.

Dated: May 14, 2013

Superior Court of California, County of  
Sacramento

By: F. Temmerman,  
Deputy Clerk