



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CPF-14-513503

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ORDER

CORINNE WOODS et al VS. JOHN ARNTZ, IN HIS OFFICIAL CAPACITY AS
DIRECTOR et al

001C05970666

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AUG 02 2017

CLERK OF THE COURT
BY  Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CORINNE WOODS, MICHAEL
THERIAULT, and TIM COLEN,

Petitioners / Plaintiffs,

vs.

JOHN ARNTZ, et al.,

Respondents / Defendants,

REBECCA EVANS,

Real Party in Interest.

Case No. CPF-14-513503
Consolidated with
Case No. CGC-14-540531

**ORDER DENYING CALIFORNIA
STATE LANDS COMMISSION'S
MOTION FOR SUMMARY
JUDGMENT AND DENYING CITY
AND COUNTY OF SAN
FRANCISCO'S CROSS MOTION FOR
SUMMARY JUDGMENT**

CALIFORNIA STATE LANDS
COMMISSION,

Petitioner / Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, DOES ONE THROUGH
FIFTY,

Respondents / Defendants.

1 The Motion for Summary Judgment of Plaintiff California State Lands Commission
2 (“Commission”) and the Cross Motion for Summary Judgment of Defendant City and County of
3 San Francisco (“City”) was heard on June 28, 2017. The Commission appeared through Joel
4 Jacobs, Deputy Attorney General. The City appeared through Deputy City Attorney Christine
5 Van Aken. Having considered the papers submitted and argument of counsel, and good cause
6 appearing, the Court hereby rules as follows:

7 The California State Lands Commission’s Motion for Summary Judgment is DENIED.
8 The City of San Francisco’s Cross-Motion for Summary Judgment is also DENIED.

9 San Francisco voters approved Proposition B in June, 2014. Proposition B requires a
10 vote of the City electorate for any increase in height limits for structures on waterfront lands that
11 were granted in trust by California to the City. In passing Proposition B, the voters
12 acknowledged that “San Francisco holds the waterfront in trust for the People of California.”

13 The Commission has brought a facial challenge to Proposition B, contending that
14 Proposition B is wholly invalid because it violates Public Resources Code Section 6009.
15 Section 6009, however, does not forbid all initiatives but only those that subjugate statewide
16 concerns to local interests. “Subjugation” is not defined in the statute; the ordinary meaning of
17 the term includes to “bring under control” or to “subdue.” The issue before the Court therefore is
18 whether Proposition B subjugates statewide concerns to local interests.
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21 There is a disputed issue of material fact as to whether Proposition B’s effects have
22 subjugated or will subjugate statewide concerns to local interests. To date, there have been two
23 applications of Proposition B to developments at the waterfront: the Pier 70 project and the
24 Mission Rock project. The Commission argues that the developers of both projects reduced the
25 height of the towers in each project in order to appeal to the San Francisco electorate. According
26 to the Commission, a reduction in the height of the towers resulted in a reduction of revenue to
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1 the Port which could have been used for trust purposes. The City vigorously disputes these
2 assertions. (See, e.g. Commission's Responses to City's Separate Statement of Undisputed Facts
3 at 7, 9; Commission's Responses to the City's First Set of Special Interrogatories, Nos. 1, 3 [Van
4 Aken Dec. Tab A, Ex. 2 at 2:13-28, 3:16-28]; Commission's Supplemental Responses to the
5 City's First Set of Special Interrogatories, Nos. 1, 3 [Van Aken Dec. Tab A, Ex. 3 at 3:13-5:4].)

6 Similarly there is a factual dispute as to whether the addition of affordable housing units
7 to each project was motivated by statewide or local interests and whether the addition of these
8 units resulted in a diminution of revenue to the Port. (See, e.g. City's Opp. to the Commission's
9 Separate Statement of Undisputed Facts at 19; Sider Dec. ¶4 [City's Evidence, Tab C]; Benson
10 Dep. 61:25-63:5 [City's Evidence, Tab A, Ex. 4].)

11 In light of the numerous disputed material facts at issue in this case, the parties' Motions
12 for Summary Judgment are DENIED. A pre-trial conference in this matter is scheduled for
13 Wednesday, August 30, 2017 at 10am. Trial is confirmed for Monday, September 11, 2017.
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17 **IT IS SO ORDERED.**

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19 Dated: 8/2/17

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23 SUZANNE R. BOLANOS
24 JUDGE OF THE SUPERIOR COURT
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1 SUPERIOR COURT OF CALIFORNIA
2 COUNTY OF SAN FRANCISCO

3 CORINNE WOODS, MICHAEL
4 THERIAULT, and TIM COLEN,

5 Petitioners / Plaintiffs,

6 vs.

7 JOHN ARNTZ, et al.,

8 Respondents / Defendants,

9 REBECCA EVANS,

10 Real Party in Interest.

Case No. CPF-14-513503
Consolidated with
Case No. CGC-14-540531

CERTIFICATE OF MAILING
(CCP 1013a (4))

11 CALIFORNIA STATE LANDS
12 COMMISSION,

13 Petitioner / Plaintiff,

14 vs.

15 CITY AND COUNTY OF SAN
16 FRANCISCO, DOES One through Fifty,

Respondents / Defendants.

17 I, Linda Fong, a deputy clerk of the Superior Court of California, County of
18 San Francisco, certify that I am not a party to the within action.

19 On August 2, 2017, I served the attached **ORDER DENYING CALIFORNIA STATE**
20 **LANDS COMMISSION'S MOTION FOR SUMMARY JUDGMENT AND DENYING**
21 **CITY AND COUTY OF SAN FRANCISCO'S CROSS MOTION FOR SUMMARY**
22 **JUDGMENT** by placing a copy thereof in a sealed envelope, addressed as follows:

1 Joel S. Jacobs
2 Deputy Attorney General
3 P.O. Box 7055
1515 Clay Street, Suite 200
Oakland, CA 94612-0550

Christine Van Aken
Deputy City Attorney
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4 Louise Renne, Esq.
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3165 Pacific Highway
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8 PACIFIC MERCHANT SHIPPING
9 ASSOCIATION
70 Washington Street, Suite 305
Oakland, CA 94607

10 and, I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco,
11 CA 94102 on the date indicated above for collection, attachment of required prepaid postage, and
12 mailing on that date following standard court practices.

13
14 Dated: August 2, 2017

15 T. MICHAEL YUEN, Clerk

16
17 By: 

18 Linda Fong, Deputy Clerk
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23
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