SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE/TIME **JUDGE**	**December 13, 2013, 3:00 p.m.** **HON. ALLEN SUMNER**	**DEPT. NO** **CLERK**	**42** **M. GARCIA**
CITY OF FOSTER CITY, et al., **Petitioners,** **v.** **CALIFORNIA DEPARTMENT OF FINANCE, et al.,** **Respondents.**		**Case No.: 34-2013-80001572**	
Nature of Proceedings:	**Petition for Writ of Mandate**		

Following is the court's tentative ruling granting the petition for writ of mandate, scheduled for December 13, 2013, at 3:00 p.m., in Department 42.

INTRODUCTION

This is another in a line of cases challenging actions by the Department of Finance ("DOF") administering the dissolution of California's redevelopment agencies. Here, DOF is attempting to "claw back" three payments made by the City of Foster City Redevelopment Agency ("RDA") to the City of Foster City ("the City") in the waning days of redevelopment. That money would then be reallocated to local taxing entities. The City's primary argument is the claw back violates Proposition 22, which prohibited the Legislature from requiring a redevelopment agency to indirectly transfer tax increment to other local entities. The court agrees. For the reasons discussed below, the petition is thus granted.

FACTUAL AND LEGAL BACKGROUND

The Community Redevelopment Law and Tax Increment Financing

In 1945, the Legislature enacted the Community Redevelopment Law authorizing cities and counties to establish redevelopment agencies to remediate urban decay. (Health & Saf. Code § 3300 et seq.; see also *California Redevelopment Association v. Matosantos* (2011) 53 Cal.4th 231, 245-46.)[1] Redevelopment agencies funded their

[1] Unless otherwise specified, all statutory references are to the Health and Safety Code.

activities primarily through tax increment financing: the redevelopment agency received property tax revenue in excess of the property tax revenue allocated to other local entities prior to the redevelopment plan. (*Id.* at 246-47.) This excess property tax revenue was referred to as tax increment. Redevelopment agencies were not limited to tax increment financing. They were also permitted to borrow money. (§ 33601 [redevelopment agency may borrow money from any public agency]; § 33610 [city or county may loan funds to agency].)

Formation of the RDA and Adoption of a Redevelopment Plan

In 1981, the City established the RDA pursuant to the Community Redevelopment Law. Shortly thereafter, the RDA adopted a redevelopment plan defining a project area and specifying goals for eliminating blight. (Ex. 1, pp. 9-11.) The redevelopment plan was to be effective for 35 years and specified the RDA could receive no more than $170 million in net tax increment from the project area. (*Id.*, pp. 46, 48.) The parties refer to this as the "cap".

The project area reached the $170 million cap in April 2011, and received its final tax increment distribution at that time.

The Loan Agreements and Payments

In 2005, the City loaned the RDA $5 million to fund certain capital improvement projects. The RDA agreed to repay the loan with tax increment before it reached the cap. By 2011, the RDA had repaid approximately $3.9.

In 2010, the City loaned the RDA an additional $1.16 million to fund an additional set of projects. As with the 2005 loan, the RDA agreed to repay the 2010 loan with tax increment before it reached the cap.

On June 29, 2011, the RDA repaid the City the remaining principal and interest due on the loans – a total of $1,272,382. This is the first payment DOF seeks to claw back.

The Public Improvement Reimbursement Agreement and Payment

In February 2011, the City and the RDA entered into a Public Improvements Reimbursement Agreement ("PIRA"). Pursuant to the PIRA, the City agreed to complete four of the RDA's public improvements projects, including one identified as the Synthetic Turf Project. The RDA agreed to provide the City up to $2.9 million in tax increment. The City agreed to use those funds, in part, "to pay all development and construction costs in connection with the projects." (Ex. 8, ¶¶ 2.1, 2.2, 3.2, pp. 132.2-132.3.) Payment was generally due at the time project costs were incurred by the City. (Ex. 8, p. 132.8.)

The PIRA provides it is intended solely for the benefit of the City and the RDA, and "[n]otwithstanding any references in this Agreement to persons or entities other than the City and the [RDA], ***there shall be no third party beneficiaries*** under this Agreement." (Ex. 8, ¶ 8.3, p. 132.5 [emphasis added].)

In June 2011, the City entered into a $177,800 contract with Verde Design Inc. to complete a portion of the Synthetic Turf Project. (Ex. 9., p. 134.) For reasons unstated, only half of this amount was chargeable to the RDA.

Verde invoiced the City $153,118 between June 2011 and February 2012. The City paid the invoices, and the RDA reimbursed it for half this amount, $76,559, pursuant to the PIRA. This is the second payment DOF seeks to claw back.

Cooperative Services Agreement and Payment

In 1991, the RDA entered into a stipulated judgment with the San Mateo Union High School District, agreeing to pay the District $9.6 million by 2016. (Ex. 6.) By 2011, $2,467,000 of this amount was still owed.

In April 2011, the RDA and the City entered into a Cooperative Services Agreement ("CSA"), pursuant to which the City agreed to assume the RDA's obligation to make the payments required under the stipulated judgment, and the RDA agreed to transfer $2,467,000 in tax increment to the City for that purpose. (Ex. 7.)

The City also agreed to assume certain responsibilities of the RDA related to winding down the redevelopment plan, which had just reached its $170 million cap. The CSA thus provides the City could retain any interest earned on the transferred funds to defray its administrative expenses. (Ex. 7, § 2(a)(2).) The City claims it has earned $19,569 in interest on the $2,467,000 transferred to it. This is the third payment DOF seeks to claw back.

The Dissolution Law

On June 28, 2011, the Legislature enacted AB 1X 26 eliminating redevelopment agencies. In December 2011, the California Supreme Court upheld the constitutionality of AB 1X 26 in *Matosantos, supra*, 53 Cal.4th 231. In June 2012, the Legislature adopted AB 1484 modifying the provisions of AB1X 26. The court refers to AB 1X 26 and AB 1484 collectively as the "Dissolution Law."

A primary goal of the Dissolution Law was to increase the share of property taxes going to cities, counties, schools and other local entities by reallocating to them the tax increment formerly allocated to redevelopment agencies. (See, e.g., *Matosantos, supra*, 53 Cal.4th at 241, 250, 263; 2011 Stats., 1st Ex. Sess., ch. 5, § 1.) This reallocation, however, would not happen immediately. Although the Dissolution Law eliminated redevelopment agencies, it did not eliminate their existing enforceable obligations.

The Legislature established successor agencies to wind down the affairs of the former redevelopment agencies.[2] (§§ 34173, 34177.) Among other things, successor agencies are responsible for making payments due on the former redevelopment agencies' ***enforceable obligations***. (§ 34177(a), (d), (h).) The term enforceable obligation includes any legally enforceable agreement or contract. (§§ 34167, subd. (d)(5); § 34171(d)(1)(E).) However, the Dissolution Law provides agreements between the city that created the redevelopment agency and the former redevelopment agency are ***not*** considered enforceable obligations. (§ 34171, subd. (d)(2).) This provision was not effective until redevelopment agencies were dissolved on February 1, 2012. During what is known as the "freeze" period of the dissolution process, from June 28, 2011, until January 30, 2012, agreements between redevelopment agencies and their creator cities were ***not*** excluded from the definition of enforceable obligations.[3] (§ 34167, subd. (d).)

In addition to making payments on enforceable obligations, the successor agency also conducts a due diligence review ("DDR") to determine the unobligated balances of the former redevelopment agency now available for reallocation to other local entities. (See generally § 34179.5.) The DDR also determines the value of any assets the former redevelopment agency transferred to its creator city between January 1, 2011 and June 30, 2012. (§ 34179.5(c)(2).) For any such transfer not required by an enforceable obligation, the amount transferred is added to the unobligated balances available for distribution to other local taxing entities. (§ 34179.5(c)(6).) The DDR must be approved by DOF, which may adjust the amount available for distribution. (§ 34179.6, subds. (c) and (d).)

The Challenged DDR Determination

Here, the DDR disclosed between January 1, 2011, and January 31, 2012, the RDA transferred $1,368,510 to the City: (1) the $1,272,382 payment pursuant to the 2005 and 2010 loans; (2) the $76,559 payment pursuant to the PIRA; and (3) the $19,569 interest payment pursuant to the CSA. DOF found these transfers were not made pursuant to enforceable obligations. DOF based its determination on section 34171, subdivision (d)(2), which excludes contracts between a redevelopment agency and its creator city. DOF thus determined the $1,368,510 transferred was available for distribution to other local taxing entities and ordered the City to return this amount. The City challenges this "claw back" determination.

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[2] In this case, the City has become the successor agency to the RDA.

[3] The purpose of the freeze period was to preserve redevelopment agency assets and revenues for use by local governments to fund core governmental services such as fire protection, police, and schools. (*Id.*; § 34167, subd. (a).)

As described by the Court in *Matosantos*, although redevelopment agencies could not issue new bonds or enter into new obligations during the freeze period, their existing obligations were unaffected. They could continue making payments on existing obligations until successor agencies took over. (*Matosantos, supra*, 53 Cal.4th at 250.) Indeed, the Dissolution Law directs redevelopment agencies "***shall***" continue to make all scheduled payments on enforceable obligations until successor agencies are authorized. (§ 34169 [emphasis added].)

DISCUSSION

1. The claw back violates Proposition 22

The City's primary argument is DOF's claw back determination violates Proposition 22, which amended the California Constitution to provide:

> ***[T]he Legislature shall not . . . [r]equire a community redevelopment agency*** . . . ***to*** pay, remit, loan, or otherwise ***transfer, directly or indirectly, [tax increment] allocated to the agency*** pursuant to Section 16 of Article XVI[4] ***to or for the benefit of*** the State, any agency of the State, or ***any jurisdiction***.

(Cal. Const., art. XIII, sec. 25.5(a)(7) [emphasis added].) The term "jurisdiction" means a city, county, special district, school district, or community college district. (Cal. Const., art. XIII, sec. 25.5(b)(2); Rev. & Tax. Code § 95, subds. (a), (b).) It is undisputed the clawed back funds are to be distributed to precisely these entities. (§ 34177, subd. (d); § 34179.5, subds. (a), (c)(6); § 34179.6, subd. (f).) The question is whether this distribution violates Proposition 22.

In interpreting Proposition 22, the court begins with the text itself. (*Matosantos, supra*, 53 Cal.4th at 265.) Where the text is ambiguous, the court may turn to extrinsic sources, such as the context of adoption and the ballot materials presented to the voters. (*Id*.)

The text of Proposition 22 states its purpose was "to prohibit the Legislature from requiring, ***after the taxes have been allocated to a redevelopment agency***, the redevelopment agency to transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction." (Prop. 22, § 9 [emphasis added.) Section 11 of Proposition 22 instructs: "The provisions of this act shall be liberally construed in order to effectuate its purposes." (*Id*., ¶ 11.)

Liberally construing Proposition 22, the court finds it prohibits the State from ***indirectly*** requiring a redevelopment agency to transfer its tax increment to other local entities, including cities, counties, and school districts. DOF is attempting to do precisely this with the claw back.

The Legislative Analyst's analysis in the Official Voter Information Guide stated Proposition 22 would prohibit the State from requiring redevelopment agencies to shift their funds to schools or other local entities, and eliminate the Legislature's authority to redirect a redevelopment agency's property taxes to any other local government. (Voter Information Guide, Gen. Elec. (Nov. 2, 2010), analysis of Prop. 22 by Legis. Analyst, pp.

[4] Section 16 of article XVI authorizes the Legislature to allocate tax increment to redevelopment agencies.

31, 34.)[5] Similarly, the Court in *Matosantos* explained the historical context in which Proposition 22 was adopted demonstrates its purpose was to restrict the State's ability to demand that redevelopment agencies transfer a percentage of their tax increment to schools. (*Matosantos, supra*, 53 Cal.4th at 266.)

Based on the text of Proposition 22, the ballot materials presented to voters, and the Supreme Court's discussion in *Matosantos*, the court finds Proposition 22 does precisely what it says: it prohibits the Legislature from directly or indirectly requiring a redevelopment agency to transfer its tax increment to schools and other local governmental entities.

The City argues DOF is violating Proposition 22 in two ways. First, by ordering the return of tax increment that had been allocated to, and spent by, the RDA prior to its dissolution. Second, by directing these funds be reallocated to schools and other local entities. The court agrees.

The City cites the Supreme Court's discussion in *Matosantos*. Although *Matosantos* upheld the Legislature's broad power to dissolve redevelopment agencies, it noted Proposition 22 strips the Legislature "of the narrower power to insist on transfers to third parties of property tax revenue ***already allocated*** to the redevelopment agencies." (*Matosantos, supra*, 53 Cal.4th at 261-62 [emphasis added].) In upholding the Legislature's authority to dissolve redevelopment agencies, the Court explained:

> ***Proposition 22's limit on state restrictions of redevelopment agencies' use of their funds is best read as limiting the Legislature's powers during the operation,*** rather than the dissolution, ***of redevelopment agencies***. . . . Thus, *if* the Legislature exercises its constitutional power to authorize allocation of property taxes to redevelopment agencies, and *if* a redevelopment plan so provides, *then* those ***taxes so allocated*** to ***an operating redevelopment agency may not be restricted to benefit the state by any further legislative action***.

(*Matosantos, supra*, 53 Cal.4th at 263 [italics in original, bold italics added].)

The City argues Proposition 22 and *Matosantos* establish DOF cannot reallocate tax increment ***already transferred by the RDA*** to the City ***prior to*** its dissolution. The RDA received its last allocation of tax increment in April 2011. Its operations were frozen on June 29, 2011, and it was dissolved on February 1, 2012. (§ 34161; *Matosantos, supra*, 53 Cal.4th at 275.) All the transfers DOF seeks to claw back occurred during the freeze period, prior to the RDA's dissolution on February 1, 2012. The City

[5] The City's request to judicially notice the Official Voter Information Guide for Proposition 22 (November 2, 2010), including the Legislative Analyst's analysis of the Proposition, is granted. The Guide is attached as Exhibit A to the City's request.

argues DOF's claw back determination thus effectively requires ***the RDA*** to transfer its tax increment to local taxing entities, in violation of Proposition 22. The court agrees.

DOF offers several arguments supporting the claw back. None persuades. DOF argues Proposition 22 was intended to end the Legislature's practice of requiring redevelopment agencies to transfer their tax increment to fund ***education***. This is accurate, but it supports the City - not DOF. The effect of the claw back is to transfer over $1 million of the RDA's tax increment to fund education. Although some of the reallocated funds will go to cities, counties, and special districts, school districts will receive the largest share. (See, e.g., Legislative Analyst's Office, Understanding California's Property Taxes (Nov. 29, 2012), pp. 18-19.)

DOF argues Proposition 22 sought to prohibit the State from reducing local government tax proceeds. According to DOF, the claw back does not ***reduce*** local taxes, but simply ***redistributes*** them locally. But Proposition 22 does not simply prohibit the Legislature from taking local taxes for statewide use. It specifically prohibits the Legislature from requiring redevelopment agencies to transfer tax increment to other ***local entities***, including cities, counties, and school districts. (Cal. Const., art. XIII, sec. 25.5(a)(7).) DOF also ignores the State's role in financing education. (See *Matosantos, supra*, 53 Cal.4th at 243-245, 248.) Reallocating tax increment to school districts directly benefits the State, which is required to ensure minimum funding levels for all schools. (*Id*.)

DOF argues the claw back is "consistent with" *Matosantos*. It is not. *Matosantos* held Proposition 22 does not prevent the Legislature from abolishing RDAs. (*Matosantos, supra*, 53 Cal.4th at 262, 264.) However, *Matosantos* did not address the claw back provisions added by AB 1484 six months later.

DOF argues the Court in *Matosantos* was "well aware" AB 1X 26 required the RDA's unencumbered funds be redistributed to other local taxing entities. This is true. But DOF is not reallocating unencumbered funds remaining in the dissolved RDA's coffers. Instead, DOF seeks to claw back and then reallocate funds ***already distributed*** by the RDA prior to its dissolution. This is a fundamental difference, and where the Dissolution Law violates Proposition 22. Proposition 22 prohibited the Legislature from requiring the RDA to transfer $1 million to local taxing entities while it was operational. The court concludes Proposition 22 also prohibits DOF from ***indirectly*** requiring such a transfer through the DDR process.

Finally, DOF argues Proposition 22 only applies to operating RDAs; because the claw back applies to ***successor agencies***, it does not implicate Proposition 22. This argument elevates form over substance. Again, DOF is not reallocating the unencumbered balances of the RDA on hand the date it was dissolved.[6] (See, e.g., §

[6] This distinction explains why unencumbered funds remaining in the RDA's coffers when the successor agency took over on February 1, 2012, ***are*** subject to reallocation, even though those funds would consist of tax increment that was allocated to the RDA prior to its dissolution. Proposition 22 prohibits the

34175, subd. (a) [all assets, including cash and cash equivalents, of former redevelopment agency transferred to successor agency upon dissolution].) Rather, the claw back seeks to unwind transfers the RDA made prior to its dissolution, and now reallocate that money to other local taxing entities. The effect is to indirectly require the RDA to transfer tax increment to schools and other local taxing entities. This is precisely what Proposition 22 prohibits.

2. The Dissolution Law does not conflict with Proposition 22

As our Supreme Court explained over a century ago:

> courts always presume in the first place that the act is constitutional. They also presume that the legislature acted with integrity, and with an honest purpose to keep within the restrictions and limitations laid down by the constitution. The legislature is a coordinate department of the government, invested with high and responsible duties, and it must be presumed that it has considered and discussed the constitutionality of all measures passed by it.

(*Beach v. Von Detten* (1903) 139 Cal. 462, 464-65.) The court thus presumes the Legislature is aware of all relevant constitutional prescriptions, and enacts laws with those prescriptions in mind. (See *Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1221; see also *Martin v. Szeto* (2004) 32 Cal.4th 445, 449 ["we presume the Legislature intended to comply with the state Constitution"]; *People v. Simon* (1995) 9 Cal.4th 493, 522 ["We presume the Legislature did not intend to enact a statute of doubtful validity."].) The court must also presume a statute is constitutional unless it is clearly and unmistakably unconstitutional, and all presumptions favor its validity. (*City of Los Angeles v. Superior Court* (2002) 29 Cal.4th 1, 10-11.)

The court thus starts with the presumption the Legislature was aware of Proposition 22, intended to comply with it, and did comply with it.

a) Limiting the claw back carries out the Legislature's intent

The City argues the Legislature drafted the DDR provisions narrowly with the restrictions imposed by Proposition 22 in mind. Specifically, the City maintains the Legislature did not intend the claw back to apply to payments the RDA made before dissolution that were legally valid when made.

There is scant legislative history for AB 1484.[7] However, the Assembly Floor analysis[8] (as amended June 25, 2012) states:

Legislature from requiring ***RDAs*** to transfer funds to local entities; its prohibitions thus would not apply to unencumbered funds transferred to the successor agency by operation of law.

[7] AB 1484 was introduced on June 25, 2012, and enacted two days later on June 27.

> Many RDAs, prior to shut down in February 2012, made expenditures of cash and transferred other cash assets that might in fact be ***contrary to the provisions of AB 26 X1…***. [D]ue to the budget cash shortage the state needs to have … cash assets returned to the successor agency for distribution to the taxing entities….

The analysis also notes AB 1484 "sets up a process to review financial records and transactions that occurred between the former RDA or the successor agency and other public or private entities ***that may not have been authorized under the provisions established in AB 26 X1*** and return those funds to the successor agencies for the benefit of the taxing entities…." (*Id*., p. 12.) This supports a construction that the Legislature only intended to claw back payments by the former RDA that were contrary to AB 1X 26.

Here the payments DOF seeks to claw back were authorized by AB 1X 26. First, all of the payments were made during the freeze period, prior to the RDA's dissolution. Second, during the freeze period RDAs were ***instructed to*** continue making all scheduled payments on enforceable obligations. (§ 34169, subd. (a) [until successor agencies are authorized, RDA "shall" continue to make payments on enforceable obligations].) Third, enforceable obligations were defined to include (1) loans of money borrowed by the redevelopment agency for a lawful purpose and (2) any legally binding and enforceable agreement or contract. (§ 34167, subds. (d)(2) and (d)(5).) Agreements between the RDA and its creator city were ***not*** excluded from the definition of enforceable obligations during the freeze period. The exclusion for such agreements only applies once the RDA is dissolved and a successor agency established. (Compare § 34167, subd. (d) with § 34171, subd. (d)(2).)

DOF does not dispute the agreements were enforceable obligations, as defined during the freeze period when they were made. If the payments were thus authorized by AB 1X 26 during the freeze period, the legislative history of AB 1484 suggests the Legislature did not intend to retroactively subject them to claw back.

b) Limiting the claw back comports with Proposition 22

If a statute may be construed two ways, one rendering it constitutional and another raising serious constitutional questions, the court must adopt the construction that avoids the constitutional question. (*Miller v. Municipal Court* (1943) 22 Cal.2d 818, 828; *International Assn. of Plumbing and Mechanical Officials v. California Building Standards Assn* (1997) 55 Cal.App.4th 245, 256; *Rust v. Sullivan* (1991) 500 U.S. 173, 191 ["A statute must be construed, if fairly possible, so as to avoid not only the conclusion that it is unconstitutional but also grave doubts upon that score."].)

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[8] Available at: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1451-1500/ab_1484_cfa_20120627_143326_asm_floor.html. (Last visited Dec. 11, 2013.)

To avoid a serious conflict with Proposition 22, the court interprets section 34179.5 to exclude payments authorized by AB 1X 26. Specifically, the court interprets section 34179.5 to exclude payments made during the freeze period pursuant to otherwise legally enforceable agreements between the RDA and the City.

This construction effectuates the Legislature's intent to address transfers made prior to dissolution that were contrary to the provisions of AB 1X 26. At the same time, this construction comports with Proposition 22.

3. There are no third party beneficiaries to the PIRA

The City makes an alternative argument why the claw back should not apply to one of the three payments: the $79,559 payment made pursuant to the PIRA. The City argues this is a ***third party beneficiary*** agreement, excluding it from section 34171(d)(2). The court is not persuaded.

The City maintains the parties anticipated the RDA would transfer funds to the City, and the City would spend those funds to pay construction costs of the identified projects. The City hired Verde Design Inc. to complete a portion of one of those projects, paying Verde from money transferred by the RDA pursuant to the PIRA. The City thus argues Verde was thus a third party beneficiary to the PIRA. The argument fails for two reasons.

First, the third party beneficiary doctrine is to allow the ***third party*** to enforce the contract against the promisor. (*Souza v. Westlands Water Dist.* (2006) 135 Cal.App.4th 879, 893.) Verde, the purported third party beneficiary, is not before the court.

Second, the City has not established the PIRA was in fact intended to benefit Verde. "The test for determining whether a contract was made for the benefit of a third person is whether ***an intent*** to benefit a third person appears from the terms of the contract." (*Prouty v. Gores Technology Group* (2004) 121 Cal. App.4th 1223, 1232 [emphasis added].) "The contracting parties must have intended to confer a benefit on the third party." (*Neverkovec v. Fredericks* (1999) 74 Cal.App.4th 337, 348.) Here the PIRA expressly states: "Notwithstanding any references in this Agreement to persons or entities other than the City and the [RDA], ***there shall be no third party beneficiaries*** under this Agreement." (Ex. 8, ¶ 8.3, p. 132.5 [emphasis added].)

The PIRA was clearly not intended to benefit any third party. That Verde might be incidentally benefited from performance of the contract is not enough. (*Souza, supra*, 135 Cal.App.4th at 891.)

4. The court does not address the City's remaining arguments

The City makes two alternative arguments the court does not address. First, the City argues ***if*** the court does not reverse DOF's claw back determination, it should grant

declaratory relief and hold the $170 million tax increment cap has not been met. Because the court ***does*** reverse DOF's claw back determination, it does not reach this argument.

Second, the City argues DOF is relying on underground regulations in implementing the Dissolution Law. As DOF points out, however, this issue is not raised in the petition. The court thus declines to address this argument.

CONCLUSION

For the foregoing reasons, the petition is granted. In granting the petition, the court is not asked to find the claw back process enacted by the Legislature violates Proposition 22. Instead, the court finds DOF's claw back determination in this case violates Proposition 22. DOF's determination is inconsistent with the Legislature's intent that only payments unauthorized by AB 1X 26 are subject to claw back. Because the payments in this case were authorized by AB 1X 26, DOF's determination went too far.
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The tentative ruling shall become the court's final ruling and statement of decision unless a party wishing to be heard so advises the clerk of this department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear. In the event this tentative ruling becomes the final ruling of the court, counsel for the prevailing party is directed to prepare a formal judgment and writ, 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.

The court prefers that any party intending to participate at the hearing be present in court. Any party who wishes to appear by telephone must contact the court clerk by 4:00 p.m. the court day before the hearing. (See Cal. Rule Court, Rule 3,670; Sac. County Superior Court Local Rule 2.04.)

In the event that a hearing is requested, oral argument shall be limited to no more than thirty (30) minutes per side.

If a hearing is requested, any party desiring an official record of the proceeding shall make arrangement for reporting services with the clerk of the department not later than 4:30 p.m. on the day before the hearing. The fee is $30.00 for civil proceedings lasting under one hour, and $239.00 per half day of proceedings lasting more than one hour. (Local Rule 9.06(B) and Gov't. Code § 68086.) Payment is due at the time of the hearing.