SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 05/13/15			**DEPT.** 86
HONORABLE LUIS A. LAVIN	JUDGE	N DIGIAMBATTISTA	DEPUTY CLERK
HONORABLE	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
NONE	Deputy Sheriff	NONE	Reporter

8:30 am	BC576587	Plaintiff Counsel	
	UNITED WALNUT TAXPAYERS VS MT SAN ANTONIO ETC, ET AL **CEQA** 170.6 O'DONNELL - PLAINTIFF R/T BS154389	Defendant Counsel	NO APPEARANCES

NATURE OF PROCEEDINGS:

ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION
RULING ON SUBMITTED MATTER

The court having taken the above matter under submission on May 7, 2015, now makes its ruling as follows:

Plaintiff United Walnut Taxpayers seeks to enjoin Defendants Mt. San Antonio Community College District and William Scroggins, in his official capacity as President and CEO of Mt. San Antonio Community College, from continuing with construction of a 2,000-plus parking space structure on the campus of Mt. San Antonio Community College and from spending any Measure RR bond funds on that project. The preliminary injunction is granted for the reasons that follow.

Requests for Judicial Notice

The requests for judicial notice are granted.

Evidentiary Objections

Evidentiary objections must be specific and accompanied by a reasonable, definite statement of the grounds. See Evidence Code § 353 (a) (objections must "make clear the specific ground of the objection"). Accordingly, if a party objected to

8:30 am BC576587

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several sentences or an entire paragraph in a declaration and one of the sentences is not objectionable, or if a party simply listed a litany of boilerplate objections, the Court overruled the objection. It is not the Court's duty to parse those sentences that are objectionable, or divine the specific basis for an objection, if the moving party has not done so. See People v. Porter, (1947) 82 Cal. App.2d 585, 588 ("An objection must usually be specific and point out the ground or grounds relied upon in a manner sufficient to advise the trial court and opposing counsel of the alleged defect so that the ruling may be made understandingly and the objection obviated if possible."). With these principles in mind, the Court overrules all of the parties' objections except for the following: the District's objections nos. 5, 6, 14, and 17 to the Sherman Declaration are sustained.

Discussion

Plaintiff is likely to prevail on its third and fourth causes of action alleging violations of the City's zoning ordinance.

Mt. San Antonio's campus is zoned as a "Residential Planned Development" (RPD) on the City's zoning map. District's RJN, Ex. 5. The City's zoning code specifies that structures within an RPD zone cannot

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NATURE OF PROCEEDINGS:

exceed thirty-five feet in height and does not list a parking structure as the type of structure that can be built within this zone. District's RJN, Ex. 12, pp. 1-2; Walnut Zoning Code § 25-89.1(b)(4)(g). However, a school district can exempt itself from local zoning codes under certain circumstances:

"the governing board of a school district may render a city or county zoning ordinance inapplicable to a proposed use of property by the school district. The governing board of the school district may not take this action when the proposed use of the property by the school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings."

Gov. Code § 53094(b) (Section 53094). The term "nonclassroom facilities" has been interpreted to mean "those not directly used for or related to student instruction." City of Santa Cruz v. Santa Cruz City School Bd. of Education, (1989) 210 Cal.App.3d 1, 7.

Here, the District purported to exempt the parking structure project from the City's zoning code on February 11, 2015. Nellesen Decl., Ex. 21. Plaintiff argues that this exemption is ineffective because the project, a parking structure, is a nonclassroom facility that cannot be exempted from

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NATURE OF PROCEEDINGS:

the City's zoning codes pursuant to the plain language of Section 53094. Plaintiff is correct.

In City of Santa Cruz v. Santa Cruz City School Bd. of Education, the court considered whether a high school could exempt lighting renovations for the school's playing field from the city's zoning ordinances pursuant to Section 53094. Id., pp. 2-3. The city argued that the language of that statute only allowed an exemption for "a room in a school building," thus excluding outdoor field lighting. Id., p. 4. The court disagreed, finding that "nonclassroom facilities" means "those not directly used for or related to student instruction." Id., p. 7. Applying this definition, the court concluded that the playing field was directly used for student instruction because it was used for physical education classes, interscholastic athletics, spirit activities and band performances which were "an integral and vital part" of the educational program at the high school. Id., pp. 8-9. Thus, the lighting renovations for the field could be exempted from the city's zoning ordinances because they were not nonclassroom facilities. Id.

The Court finds that the parking structure is a nonclassroom facility that cannot be exempted from the City's zoning laws under Section 53094. A parking structure is ordinarily used for parking purposes, not for student instruction. Unlike the

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NATURE OF PROCEEDINGS:

playing field in City of Santa Cruz, no regular classes will be held in the parking structure and the activity that will primarily take place there (i.e., parking) is not an integral and vital part of the education being provided at Mt. San Antonio. While available parking spaces are ancillary to the classroom instruction of students, the Legislature intended to distinguish between instructional facilities and support facilities, such as administrative buildings, for purposes of the exemption in Section 53094. See City of Santa Cruz, supra, 210 Cal.App.3d at 7. A parking structure falls squarely into the category of support facilities in that it is only tangentially related to student instruction; it simply provides students with another place to park while they receive instruction elsewhere. Thus, it is not directly used for or related to student instruction.

The legislative history of Section 53094 supports this conclusion. Indeed, one of the stated reasons given during the floor analysis of the 1976 amendment to Section 53094 that stripped school districts of the power to override local zoning laws for "nonclassroom facilities" was the perception that the districts had used the exemption "to authorize various nonclassroom facilities, such as parking facilities, in areas where these facilities are not compatible with the zoning and land use of adjacent property." See Plaintiff's RJN, Ex. 7

NATURE OF PROCEEDINGS:

[Sherman Decl., Ex. J]; see also District's RJN, Ex. 16, pp. 7, 19, 21, 60-61 and 63.

To be sure, the District argues that the parking structure is directly related to student instruction because certain academic departments will use the structure for educational purposes. For example, it claims that the Fire Technology department plans to use the structure to study proper fire/life safety construction issues and the District's robotics program will use the space to practice with their robots. See Shull Decl., 5; Malmgren Decl., 6. These anticipated uses are not ordinary and established uses of the parking structure. Indeed, the District has not shown that a parking facility has ever been used for educational purposes by Mt. San Antonio. In contrast, the playing field at issue in City of Santa Cruz was used for regularly held physical education classes and interscholastic sporting events that were an "integral and vital" part of the scholastic life of the high school. City of Santa Cruz, supra, 210 Cal.App.3d at 8-9. While the additional space in the parking structure may be useful to certain educational programs at intermittent times, this ad hoc and irregular anticipated use of the structure does not mean that it will be directly used for or related to student instruction.

The District also argues that the parking structure

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is directly related to student instruction because it will allow Mt. San Antonio's growing student population to find parking spots and, therefore, attend classes. However, the District misconstrues the term "directly". "Directly" means "in a straight forward manner; in a straight line or course; immediately." Black's Law Dictionary (10th ed. 2014). The proposed parking structure is not "immediately" related to student instruction; rather, it is indirectly related to a student's classroom instruction in the same way that administrative buildings and other support facilities are related to student instruction. The Legislature made a distinction between facilities directly related to student instruction and support facilities when it enacted the present version of Section 53094. In addition, the Legislature only made a distinction between buildings directly used or related to student instruction and support buildings; it did not make a distinction between commercial buildings and noncommercial buildings.

As a separate basis for granting the injunction, the Court finds that Plaintiff is also likely to succeed on its first cause of action alleging that the parking structure was not sufficiently identified in Measure RR when it was presented to the voters. See Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist., (2013) 215 Cal. App. 4th 1013. The Court does not reach Plaintiff's

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remaining arguments.

After weighing the relative interim harm to the parties from the issuance or nonissuance of the injunction, the Court finds that an injunction should issue. As stated in the City's zoning codes, the restrictions on land for properties zoned RPD, which includes the Mt. San Antonio's campus, is to encourage the "appropriate and desirable use of land which is sufficiently unique in its physical characteristics and other circumstances to warrant special methods of development." Walnut City Code § 25-88. If the project is permitted to go forward, Plaintiff and the community will lose their interest in the enforcement of the City's zoning codes and in the orderly development of their community. In contrast, the District's harm is primarily financial. As for its students having to look for other parking spots pending this litigation, that harm is less severe than the harm that Plaintiff's members will suffer.

In determining the amount of the undertaking, the District argues that any injunction will delay the project for at least one year since the Phase I site work on the parking structure must occur during the summer months when the majority of students are not on campus. Nellesen Decl., 46. According to the District, such a delay would cause it to incur damages of approximately $8,541,970. Nellesen

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NATURE OF PROCEEDINGS:

Decl., 69. While the Court appreciates that an undertaking must cover all reasonably foreseeable damages that may be proximately caused by the preliminary injunction, the District's estimated damages are grossly inflated and are not directly related to or foreseeable to an injunction stopping construction of a single parking structure. Instead, the Court finds that an undertaking should be posted by Plaintiff in the amount of $127,076. This amount was calculated as follows: $112,076 for the change order; and $15,000 to restore the building site to a safe condition.

Disposition

Based on the foregoing, the Court grants Plaintiff's request for a preliminary injunction. Defendants and real parties are enjoined from performing or conducting any further construction or dirt removal activity on the proposed parking structure site, or from spending any Measure RR funds on any aspect of this project. Plaintiff shall post an undertaking in the amount of $127,076.

IT IS SO ORDERED.

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A copy of this minute order is mailed via U.S. Mail to counsel of record addressed as follows:

CRAIG A. SHERMAN, ESQ., 1901 FIRST AVE., SUITE 335, SAN DIEGO, CA 92101

STAN BARANKIEWICZ, ORBACH, HUFF, ET AL, 1901 AVE OF THE STARS, SUITE 575, LOS ANGELES, CA 90067

DANIEL J. BULFER, ATKINSON, ANDELSON, ET AL, 20 PACIFICA, SUITE 1100, IRVINE, CA 92618

MINUTES ENTERED
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