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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED
AUG 13 2010
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LA RAZA UNIDA OF SOUTHERN
ALAMEDA COUNTY, et al.,

Plaintiffs,

v.

SAMUEL K. SKINNER, et al.,

Defendants.

NO. C71-1166 TEH

ORDER GRANTING
PRELIMINARY APPROVAL OF
DISMISSAL

On July 28, 2010, Defendants filed a motion to dismiss this nearly forty-year-old case as moot because the freeway project that is the subject of this action has been permanently abandoned. Counsel for certain plaintiffs filed a declaration in support of the motion. A second set of plaintiffs and the federal defendants filed statements of non-opposition. The time to file an opposition expired on August 11, 2010, and no other party has filed either an opposition or statement of non-opposition.

Given the lack of opposition and the apparent good cause shown in the moving papers, IT IS HEREBY ORDERED that:

1. The August 16, 2010 motion hearing is VACATED.
2. Defendants' motion for preliminary approval of dismissal of this action is GRANTED.
3. The parties shall provide notice (1) by first class mail to all current tenants in the Route 238 Freeway Corridor and to all individual named plaintiffs whose current addresses can be reasonably located and (2) by publication in the *Hayward Daily Review*. The notice shall contain the following text, adapted from Defendants' proposed notice:

A lawsuit is presently pending in the United States District Court for the Northern District of California entitled *La Raza Unida of*

1 *Southern Alameda County, et al., v. Samuel K. Skinner, et al.*,
2 Case No. C71-1166 TEH. The lawsuit is a class action filed
3 in 1971 on behalf of tenants in the Route 238 Freeway Corridor
4 who allegedly would have been displaced due to, and adversely
5 affected by the environmental impacts from, the then-proposed
6 California State Route 238 freeway or expressway project
7 (“Project”) in Hayward.

8 A dismissal of this lawsuit is now being considered because the
9 Project has been permanently abandoned and will never be
10 constructed. Also, a class-wide settlement agreement has been
11 reached in a state court case, *Swanson, et al. v. California*
12 *Department of Transportation and the City of Hayward*, Alameda
13 Superior Court Case No. RG 09476468. That settlement
14 agreement will provide housing-related benefits to tenants
15 residing in properties acquired by the California Department of
16 Transportation for the Project, but it cannot be implemented
17 unless this federal court case is dismissed. Dismissal of this
18 federal court case will also enable the sale of the Route 238
19 Freeway Corridor properties to generate funds for local
20 transportation projects adopted in lieu of the Project.

21 The parties have submitted their request for dismissal to the
22 federal court, which has granted preliminary approval of the
23 dismissal. The court will hold a hearing on October 4, 2010, at
24 10:00 AM, in Courtroom 12, 450 Golden Gate Avenue, San
25 Francisco, CA 94102, to determine whether to grant final
26 approval to the dismissal. You are welcome to attend this
27 hearing but you are not required to do so.

28 **Any comments on or objections to the dismissal of this case**
must be received in writing by one of the attorneys listed
below on or before September 24, 2010. You may also contact
any of the attorneys listed below if you have any questions about
this notice.

[Insert names and addresses of counsel to be contacted.]

4. Mailing and publication of the above notice shall take place on or before
August 25, 2010. The parties shall file a declaration specifying the manner in which notice
was effected no later than **August 30, 2010.**

5. The parties shall file a joint statement discussing any comments and objections that
were received, or stating that no comments or objections were received, on or before
September 29, 2010. The parties shall also file a proposed order granting final approval of
dismissal of this action by the same date.

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6. A final approval hearing shall take place before the Court on **October 4, 2010, at 10:00 AM**. Even if no written objections are submitted, it is the Court's practice to hold such hearings to ensure that no objectors appear on the hearing date specified in the notice.

7. Each party shall bear its own fees and costs.

IT IS SO ORDERED.

Dated: *8/13/10*



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LA RAZA UNIDA OF SOUTHERN
ALAMEDA COUNTY,

Plaintiff,

v.

SAMUEL K. SKINNER, et al.

Defendant.

Case Number: C71-1166 TEH

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 13, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Helen Yoon
State of California, Dept. Of Transportation
Legal Dept.
595 Market St., Suite 1700
San Francisco, CA 94105-2826

Dated: August 13, 2010

Richard W. Wieking, Clerk

By: *Richard W. Wieking*
Deputy Clerk



**SUBMITTING
COUNSEL DIRECTED
TO SERVE THIS ORDER
UPON ALL OTHER
PARTIES IN THIS
ACTION**