SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA

MINUTE ORDER

DATE: 06/11/2021 TIME: 10:54:00 AM DEPT: 40

JUDICIAL OFFICER PRESIDING: Mark Borrell
CLERK: Isabel H Alarcon
REPORTER/ERM:

CASE NO: **56-2020-00539590-CU-WM-VTA**
CASE TITLE: **Yes In My Back Yard vs. City of Simi Valley**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT TYPE: Miscellaneous Hearing (CLM)

APPEARANCES

NATURE OF PROCEEDINGS: HEARING RE STATEMENT OF DECISION

On May 18, 2021, the court filed and served its tentative decision in this and the related case, and it gave notice that its tentative decision would be its proposed statement of decision. Subsequently, respondent, City of Simi Valley ("City"), served and filed its request that the court address additional matters in its statement of decision and that it order relief to petitioners in a form different from that specified in the tentative decision. Each of the petitioners opposes the City's requests.

Among other things, the City asks that the court make findings of fact and conclusions of law concerning whether extraordinary circumstances exist that would preclude an award of attorneys' fees. (See Gov. Code, § 65589.5, subd. (k)(1)(A)(iii).) However, an award of attorneys' fees as an element of costs is a matter to be determined post-trial. (See Code Civ. Proc., § 1032 *et seq*.) Until petitioners bring a motion for an award of attorneys' fees, the City's request is premature.

The City also requests findings with respect to aspects of HAA that the court was not required to consider because it determined the case on other grounds. (See, Tentative Decision, "Because the court concludes that the project would be 'a use consisting of . . . [m]ixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use,' it limits its analysis solely to that definition.")

"A statement of decision need not address all the legal and factual issues raised by the parties. Instead, it need do no more than state the grounds upon which the judgment rests . . .." (*Muzquiz v. City of Emeryville* (2000) 79 Cal.App.4th 1106, 1124–1125.) Because the court's decision does not rest on grounds that it did not consider, it is not appropriate to include such other matters in the statement of decision.

For the same reason, it is unnecessary for the court to make findings in the statement of decision as to whether the project is a Supportive Housing Development. Such a finding is collateral to the matters supporting the court's determination.

Therefore, the City's request that the proposed statement of decision be augmented to include each of these matters is denied.

The City does, however, make one further request. It requests that the remedial provisions of the tentative decision and, derivatively, the writ that will issue, be expanded and modified. Petitioners object to the City's proposed modifications. The court believes the parties' respective positions frame an important issue that was not clearly addressed in the tentative decision. That issue is how best to reconcile the provisions of Government Code section 65589.5, subdivision (k)(1)(A)(ii) and subdivision (j)(2)(A)(i), and *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, at pages 1081–1082.

The City asks to add language to the statement of decision, not considered in *Honchariw*, that the application be deemed "complete" for purposes of subdivision (j)(2)(A)(i), based on the filing of the court's statement of decision. Petitioners take the position that the 30-day window under that subdivision lapsed long ago and, consequently, by operation of subdivision (j)(2)(B), the City must deem the project compliant.

In each of the two pending cases, the court sets the matter for further hearing on this limited issue and no other. No further briefing is requested or permitted. The hearing will be July 1, 2021, at 8:30 a.m., in Department 40.

The clerk is directed to give notice, with a courtesy copy by email to each counsel.