

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSED
FILED
San Francisco County Superior Court

FEB 19 2015

CLERK OF THE COURT
D. L. MARIA OLIVERAS-PENA
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 501

JEROLD JACOBY, et al.,) Case CGC-14-540709
)
Plaintiff,) MINUTE ORDER RE:
) 1. Respondent's Demurrer to First
v.) Amended Petition;
) 2. Petition for Writ of Mandate
CITY AND COUNTY OF SAN FRANCISCO,)
)
Defendants.) Date: January 14, 2015
) Time: 9:30 a.m.
) Department: 501

Upon consideration of the papers, all records on file in this action and oral argument, the Court took this matter under submission. The Court now rules as follows:

1. The Court takes judicial notice of *Levin v. City and County of San Francisco*.
2. The Court concurs with the decision in *Levin*.
3. The Court concurs with the arguments set forth in the Petitioner's points and authorities in support of the petition and in opposition to the demurrer.
4. The Court finds that the facial challenge is successfully and sufficiently alleged under *Larson v. CCSF* (2002) 192 Cal. App. 4th 1263.

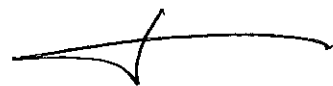
- 1 5. The Court finds the standard for determination of the propriety of the amount of
2 relocation is whether relocation compensation is “reasonable”, not whether it is
3 “prohibitive”. See Pieri v. City and County of San Francisco (2006) 137 Cal.App.4th
4 886. The Court in Pieri states several times that “*Pieri contends* the City’s relocation
5 ordinance on its face puts a *prohibitive price* on the decision to go out of the residential
6 rental business,” but then the Court (a) *concludes* that “a requirement of *reasonable*
7 relocation assistance compensation for displaced tenants does not violate the Ellis Act;”
8 and (b) frames the *issue to be decided* as “the question of whether the payments
9 required by the relocation assistance ordinance are *reasonable* remains to be decided.”
10
- 11 6. Under Pieri the payments under the ordinance at issue are not “reasonable” as it is
12 disproportionately higher than compensation contemplated by the Legislature in
13 enacting and amending Govt. Code 7060. (See Levin). Ordinance is preempted by the
14 Ellis Act.
15
- 16 7. Mitigation Ordinance’s applicability to those landlords who initiated the Ellis Act prior
17 to the enactment of the Ordinance is improper.
18

19 Therefore, Demurer is overruled and Petition for Writ of Mandate is granted.

20 Petitioner shall prepare orders in conformity with this Minute Order and comply with
21 CRC 3.1312.
22

23 **IT IS SO ORDERED.**

24 DATED: February 19, 2015



25 Ronald Evans Quidachay
26 Judge of the Superior Court
27
28

SUPERIOR COURT OF CALIFORNIA
County of San Francisco
Department 501

JEROLD JACOBY, et al.,
Plaintiff(s)

vs.

CITY AND COUNTY OF SAN FRANCISCO,
Defendant(s),

Case Number: CGC-14-540709

CERTIFICATE OF MAILING
(CCP 1013a (4))

I, Maria Olopernes-Pena, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On February 20, 2015, I served the attached MINUTE ORDER, by placing a copy thereof in a sealed envelope, addressed as follows:

CHRISTIN VAN AKEN, Dep. City Atty.
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102

ANDREW ZACKS, ESQ.
ZACKS & FREEDMAN
235 Montgomery Street, Ste. 400
San Francisco, CA 94104

RAQUEL FOX, ESQ.
TENDERLOIN HOUSING CLINIC
126 Hyde Street, 2nd Floor
San Francisco, CA 94102

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

Dated: February 20, 2015

T. MICHAEL YUEN, Clerk

By: _____

MARIA OLOPERNES-PENA

Maria Olopernes-Pena, Deputy Clerk