

AUG 30 2024

Clerk of the Superior Court
By *Francisco E. Bernal*
DEPUTY CLERK



IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

EAST PALO ALTO SANITARY DISTRICT,
Plaintiff(s),
vs.
SAN MATEO LOCAL AGENCY FORMATION
COMMISSION, et al.,
Defendant(s).

Case No. 24-CIV-01489

**RULING and ORDER on PETITION FOR WRIT
OF MANDATE (AUGUST 16, 2024 HEARING)**

PROCEDURAL BACKGROUND

This matter involves a dispute between the East Palo Alto Sanitary District (“EPASD” or “DISTRICT”) and the San Mateo Local Agency Formation Commission (“LAFCo”). The City of East Palo Alto (“CITY”) is a real party in interest. CITY applied to LAFCo for approval to make EPASD a subsidiary agency of the City. The DISTRICT submitted an alternative proposal which would have essentially maintained the status quo. LAFCo approved the CITY’s proposal on November 15, 2023. The DISTRICT asked for reconsideration of LAFCo’s decision which was denied. The DISTRICT filed the instant writ of mandate on March 7, 2024. The Court denied the DISTRICT’s request for a preliminary injunction on June 27, 2024. The hearing on the instant writ was held on August 16, 2024 and taken under submission.

The Court, having read and considered all moving and opposition papers, the argument of

1 counsel and the administrative record, as well as conducting additional legal research into the
2 applicable law, now rules as follows:

3 **GENERAL BACKGROUND**

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5 The DISTRICT has been providing sanitary services since 1939 to the residents of what is now
6 known as the City of East Palo Alto and a portion of an adjoining city, Menlo Park. It is
7 governed by a five member Board of Directors, each elected to four-year term. The City of East
8 Palo Alto incorporated in 1983 as a general law city. It is governed by a five member City
9 Council, each also elected to four-year terms. The DISTRICT and the CITY are separate legal
10 entities. The San Mateo Local Agency Formation Commission, LAFCo, is an independent
11 commission with county-wide jurisdiction over changes in organization and boundaries of cities
12 and special districts, including (but not limited to) annexations, detachments, incorporations and
13 formations.
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15 The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act),
16 Government Code sec. 56000 et seq., establishes the basic procedures and governing law for
17 the functions and actions of all 58 LAFCOs (one per county). LAFCo is charged by the state
18 legislature to review, determine and update every five years the sphere of influence (SOI) for
19 each city and special district in the county. The SOI is a plan for the probable physical
20 boundaries and service area for any given local agency. As part of the SOI process and for
21 proposals like the one at issue, LAFCo obtains a Municipal Service Review (MSR).
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23 The purpose of the MSR is to assess local agencies' ability to provide services to the public.

24 A MSR evaluates the structure and operation of municipalities and special districts and
25 discusses possible areas for improvement. In addition to the MSR there were a number of
26 other studies and analyses done by both CITY and DISTRICT that were presented to LAFCo
27 prior to its decisions and which are part of the administrative record filed with the Court.
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2 LAFCO's decision to make the DISTRICT a subsidiary of CITY would replace the current
3 governing board of DISTRICT with the City Council of CITY. The DISTRICT would continue
4 in all other respects the same as before (e.g. same employees, etc). The Council would be the
5 decision-maker for future policy matters including rates, fees, charges, expansion, repairs,
6 renovation and replacement of sanitation infrastructure.
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8 STANDARD OF REVIEW

9 Judicial review of the LAFCo decisions in the present matter is limited to whether there is a
10 "prejudicial abuse of discretion" (Government Code section 56107). Prejudicial abuse of
11 discretion exists only if LAFCo's decision(s) is not supported by substantial evidence in light of
12 the whole record. (Gov't Code, § 56107(c).) The Court does not reweigh the evidence or conduct
13 any trial de novo as to contested facts. It is a very deferential standard. Accordingly, the Court
14 does not determine which is the "best" agency to provide sanitary services to the residents of
15 East Palo Alto and Menlo Park, that would entail the evaluation of evidence on its relative merits
16 and weigh the evidence once again. The determination of substantial evidence is limited to the
17 evidence found in the administrative record.
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19 POSITIONS

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21 At the risk of over-simplification, the positions of the CITY and DISTRICT are essentially as
22 follows:

23 CITY contends DISTRICT has had years of mismanagement and incompetence in policy
24 decisions that have resulted in obstructing and frustrating the CITY's lawful and proper land use
25 decisions. City alleges that DISTRICT's connection fees are "unpredictable and unreasonable"
26 and that DISTRICT has refused to cooperate in a meaningful way regarding options for
27 financing that would allow for expansion/extension of necessary infrastructure. CITY denies
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1 that it intends to impose substantial rate increases on existing residents to pay for artificially low
2 and illegal connection fees imposed on developers. The CITY's stated reason for the proposal to
3 take over the governance of the DISTRICT "is to facilitate coordinated planning of sewer
4 service, infrastructure and capacity to accommodate for planned growth, and to improve
5 transparency, accountability and environmental health to meet the current and future needs of all
6 District ratepayers" (LAFCo Agenda of November 11, 2023, AR-004012).

8 DISTRICT contends CITY wants to place the cost new infrastructure necessary for proposed
9 developments not on the developers but on existing rate-payers most of which are lower income
10 and minority households. DISTRICT alleges that CITY's proposal was underwritten and driven
11 by developers seeking to make additional profit by paying less than the law requires.
12

13 DISTRICT asserts it has a long history and exemplary record of providing high quality
14 service at a reasonable cost to its rate-payers. DISTRICT further claims it is well-managed and
15 that its Board and employees are in a better position to provide sanitation services than a general
16 services municipality. It describes the CITY'S proposal as a "hostile takeover"

18 LAFCo's position is simply that it has diligently followed the process set out by the
19 comprehensive and detailed provisions of the CKH Act for the CITY's proposal, the
20 DISTRICT's alternative proposal and the DISTRICT's request for reconsideration. It denies that
21 it has engaged in any effort to deny DISTRICT a fair hearing or that it has violated any process
22 entitlements or rights due DISTRICT.
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24 All parties agree that any revenue increases, whether by DISTRICT or CITY, are subject to
25 Proposition 218, a Constitutional provision which places restrictions on local government
26 revenue raising, allowing the voters to repeal or reduce taxes, assessments, fees and charges
27 through the initiative process and imposing a requirement for voter approval for "special taxes"
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1 and “general taxes”. (Article XIII C of the State of California Constitution). A change of
2 governance, as contemplated by LAFCo’s action herein, in and of itself would not make it any
3 easier or harder to change or modify affected fees or charges. In addition, there are other checks
4 and balances that exist in the local political arena that allow the public to affect how their policy
5 makers may act on financial issues like rate increases and connection fees for sewer services.
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7 ADMINISTRATIVE RECORD

8 The Court has reviewed the entire record in this matter. It consists of 92 separate entries some of
9 which are very lengthy and quite comprehensive (e.g Item #62, LAFCo Agenda material of
10 November 13, 2023, AR-003994, (291 pages)). It has a number of technical and engineering
11 reports as well (e.g. Item # 42, Hildebrand Capacity Charge Study, September 7, 2022, AR-
12 001975). Also included in the record are the transcripts of the November 15, 2023 and February
13 7, 2024 hearings (approximately 5-6 hours). Although there is some redundancy, the record as a
14 whole it provides a clear understanding of the information and evidence before LAFCo at the
15 time it made its decisions on the CITY’s proposal, the DISTRICT’s alternative proposal and the
16 DISTRICT’s request for reconsideration. The record presents an excellent history of the way
17 that sewer services has been provided to the residents and rate-payers in the past but also the
18 projected needs of the future.
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22 DECISION

23 LAFCo’s decisions are reflected in its resolution(s)) setting out its findings and reasons. The
24 Court finds that the record, taken as a whole, contains substantial evidence in support of the
25 challenged decisions. The Court recognizes that there is also evidence in the record that could
26 perhaps be used to support different decisions by LAFCo. Such an observation is not in conflict
27 or irreconcilable. It reflects that the weight to be given to the evidence is up to the decision
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1 maker. Reasonable persons can disagree as to its weight, interpretation or persuasive value
2 but not the existence of evidence.

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4 It would serve no purpose or would it be appropriate for the Court to go through and list
5 every single item in the record and opine on its worth. No doubt there is some evidence,
6 taken individually or with select others that might properly be described as insufficient or
7 unsubstantial but that is not the applicable standard or role of the Court. Again, in light of the
8 whole record that was before LAFCo on November 15, 2023 and February 7, 2024 the Court
9 finds its decisions are supported by substantial evidence.

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11 **Petition for Writ of Mandate is DENIED**
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Dated: August 30, 2024



Hon. Roger T. Picquet
Judge of the San Mateo County Superior Court,
Sitting on Assignment