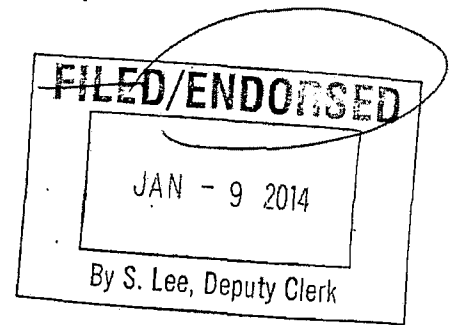


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January 8, 2014

Ms. Sharon L. O'Grady, Deputy Attorney
General
455 Golden Gate Ave.,
Suite 11000
San Francisco, CA 94102-7004

RE: John Tos et al v. California High-Speed Rail Authority et al., Sacramento County
Superior Court Case No. 34-2011-00113919.

Dear Ms. O'Grady,

In accordance with the Court's request at the case management conference in the above-referenced case held on December 13, 2013, this letter memorializes the scope of issues to be addressed in the Motion for Judgment on the Pleadings that the Defendants intend to file on January 10, 2014. The remaining briefing schedule for that motion has been set as follows: Plaintiffs' Opposition Brief is due on January 24, 2014. Defendants' Reply Brief is due on January 31, 2014, and the motion will be heard at 9:00 a.m. on Friday, February 14, 2014 in Department 31. As with other motions that have been filed in this case, we agree that in addition to service by mail, all papers will be served via electronic delivery on the date they are filed.

Plaintiffs only intend to bring four claims to trial under Code of Civil Procedure §526a and agree to dismiss all other Code of Civil Procedure § 526a claims. These claims are described as follows:

- The currently proposed high-speed rail system does not comply with the requirements of Streets and Highways Code §2704.09 in that it cannot meet the statutory requirement that the high-speed train system to be constructed so that maximum nonstop service travel time for San Francisco – Los Angeles Union Station shall not exceed 2 hours and 40 minutes;
- The currently proposed high-speed rail system does not comply with the requirements of streets and Highways Code §2704.09 in that it will not be financially viable as determined by the Authority and the requirement under §2704.08(c)(2)(J) that the planned passenger service by the Authority in the corridors or usable segments thereof will not require a local, state, or federal operating subsidy;
- The currently proposed "blended rail" system is substantially different from the system whose required characteristics were described in Proposition 1A, and the legislative appropriation towards constructing this system is therefore an attempt to modify the terms of that ballot measure in violation of article XVI, section 1 of the California Constitution and therefore must be declared invalid;
- If Plaintiffs are successful in any of the above three claims, Proposition 1A bond funds will be unavailable to construct any portion of the Authority's currently-proposed high-speed rail system. Under those circumstances, the \$3.3 billion of federal grant funds will not allow construction of a useful project. Therefore, under those circumstances

Filed by fax

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the Authority's expenditure of any portion of the \$3.3 billion of federal grant funds towards the construction of the currently-proposed system would be a wasteful use of public funds and would therefore be subject to being enjoined under Code of Civil Procedure §526a.

The parties agree that Defendants' motion need address only these claims.

In the context of these claims, the parties agree that Defendants' motion will raise the legal issues identified in Defendants' Status and Scheduling Conference Statement filed December 11, 2013. In that statement, Defendants assert that judgment on the pleadings should be entered based on the following grounds: (1) all of Plaintiffs' claims were resolved by the Court's ruling in the writ proceeding, (2) to the extent not resolved by the Court's ruling in the writ proceeding, the § 526a claims are not actionable because they duplicate the claims that were resolved in that ruling, and (3) the claims are not subject to resolution in a civil action; Plaintiffs' sole basis for relief is by petition for writ of mandate. Finally, the parties agree that the motion will address Defendants' assertion that any claims not resolved by the Court's ruling in the writ proceeding are barred because they were not pled in Plaintiffs' Second Amended Complaint and therefore are outside the scope of the current litigation. Plaintiffs disagree with each of these assertions. That disagreement forms the basis of Defendants' Motion for Judgment on the Pleadings.

This motion will leave undecided the question, if the Court determines that a trial of claims under Code of Civil Procedure §526a may proceed forward, of whether Defendants have waived any of their rights related to that trial, including but not limited to the right to further pretrial motion practice, the right to conduct any further discovery, and the right to put on any expert witnesses at the trial. Those issues are left to be addressed if this action is not fully resolved by the Court's ruling on Defendants' motion.

Most sincerely,



Stuart M. Flashman

The above letter accurately sets forth the scope of Defendants' Pending Motion for Judgment on the Pleadings.

Dated: 1/8/2014


Sharon O'Grady,
Deputy Attorney General

cc. Judge Michael P. Kenny