

43. PROPOSED DISPOSITION OF LITIGATION IN THE MATTER OF SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT V. CITY OF OAKLAND, ET AL., ALAMEDA SUPERIOR COURT CASE NO. 385237; ALAMEDA COUNTY - W-503.575.

After consideration of Calendar Item 32 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR ON BEHALF OF THE STATE OF CALIFORNIA ACTING BY AND THROUGH THE STATE LANDS COMMISSION IN THE CASE OF SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT V. CITY OF OAKLAND, ET AL., ALAMEDA SUPERIOR COURT CASE NO. 385237, AND TAKE APPROPRIATE ACTION TO INFORM THE COURT THAT THE CONDEMNATION OF FEE INTERESTS AND EASEMENTS OF TIDE AND SUBMERGED LANDS GRANTED IN TRUST BY THE STATE TO THE CITY OF OAKLAND PURSUANT TO CHAPTER 657, STATUTES OF 1911, IS LEGALLY PERMISSIBLE AND IS NOT INCONSISTENT WITH OR IN VIOLATION OF THE TRUST PURPOSES FOR WHICH THE LANDS WERE GRANTED BY THE STATE TO THE CITY OF OAKLAND BY SAID STATUTE.

Attachment

Calendar Item 32 (1 page)

PROPOSED DISPOSITION OF LITIGATION IN THE MATTER OF SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT V. CITY OF OAKLAND, ET AL., ALAMEDA SUPERIOR COURT CASE
NO. 385237; ALAMEDA COUNTY - W-503.575.

The lands sought to be condemned by the San Francisco Bay Area Rapid Transit District in this action are tide and submerged lands, filled and unfilled, granted in trust by the State to the City of Oakland pursuant to Chapter 657, Statutes of 1911. The lands are to be used for rapid transit facilities. The State has been served in the action at the request of the City of Oakland since there was some question as to whether such granted trust lands could be condemned and it was believed that any action taken in the matter should be with the consent of the State Lands Commission, which has the remaining jurisdiction and authority in respect to tide and submerged lands that have been granted in trust to public entities. Discussions have been held between representatives of the San Francisco Bay Area Rapid Transit District, the City of Oakland, the State Lands Division, and the Office of the Attorney General regarding the most expeditious manner in which the litigation should be handled in order to best serve the interests of all of the interested parties and the public. Various alternatives were considered, including sale of the land by the City of Oakland to BARTD, a 50-year lease by the City, condemnation by the State Department of Public Works, or condemnation by the San Francisco Bay Rapid Transit District. The latter course of action is favored by the District. It appears that there is no legal prohibition against such condemnation, since the lands in question are not being used by the City and the facilities of the District constructed thereon are to be used for purposes not inconsistent with the common law trust for commerce, navigation, and fisheries. Furthermore, title to the subject lands will be vested in the State since the District is a State agency. It is the recommendation of the staff of the State Lands Division that the Commission authorize the Office of the Attorney General to appear in this action on its behalf and to inform the court that such condemnation is legally permissible and is not inconsistent with the purposes for which the lands were granted in trust to the City of Oakland by the State.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR ON BEHALF OF THE STATE OF CALIFORNIA ACTING BY AND THROUGH THE STATE LANDS COMMISSION IN THE CASE OF SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT V. CITY OF OAKLAND, ET AL., ALAMEDA SUPERIOR COURT CASE NO. 385237, AND TAKE APPROPRIATE ACTION TO INFORM THE COURT THAT THE CONDEMNATION OF FEE INTERESTS AND EASEMENTS OF TIDE AND SUBMERGED LANDS GRANTED IN TRUST BY THE STATE TO THE CITY OF OAKLAND PURSUANT TO CHAPTER 657, STATUTES OF 1911, IS LEGALLY PERMISSIBLE AND IS NOT INCONSISTENT WITH OR IN VIOLATION OF THE TRUST PURPOSES FOR WHICH THE LANDS WERE GRANTED BY THE STATE TO THE CITY OF OAKLAND BY SAID STATUTE.