

1 Superior Court of California
2 County of San Bernardino
247 W. Third Street, Dept. S23
San Bernardino, CA 92415-0210

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

OCT 7 2021

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7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SAN BERNARDINO, San Bernardino DISTRICT
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10 TOWN OF APPLE VALLEY, a municipal
11 corporation,
Plaintiff,

Case No.: CIVDS1600180

12 v

13 **RULING ON OBJECTIONS TO**
14 **TENTATIVE STATEMENT OF DECISION**

14 APPLE VALLEY RANCHOS WATER
15 COMPANY, a California corporation;
16 DOES 1-100; AND ALL PERSONS
17 UNKNOWN CLAIMING AN INTEREST IN
18 THE PROPERTY,

Defendants

19
20 This matter came before the court for a hearing on objections by the Town of
21 Apple Valley ("Town"), to the court's Tentative Statement of Decision. The court has
22 reviewed and considered the briefs of the parties as well as the arguments of counsel
23 and issues its ruling as follows:

24 **A. INTRODUCTION**

25 The Town has filed 52 pages of objections to the Courts 84 page Tentative
26 Statement of Decision, including 105 questions which the court has spent considerable
27 time reviewing. Overall, a considerable portion of the so-called objections consist of the
28 Town rearguing its view of the evidence and disagreement with applicable law. In the
end, the court has reviewed and considered the Town's objections within the legal

1 framework and context of CCP 632, and 634 and other relevant and applicable legal
2 parameters in an effort to determine what, if any, changes or modifications may be
3 legally justified or required to the Court's Tentative Statement. Through this lens the
4 court finds greater clarity.

5 **B. DISPOSITION**

6 Under CCP 634, a party's objections to a statement of decision may only be
7 based on the grounds it omits findings on critical issues controverted at trial, or that its
8 findings as to such issues are ambiguous; see also Ca. Rules of Court, Rule 3.1590(g).
9 Section 634 "applies only when there is an omission or ambiguity in the trial court's
10 decision." *Duarte Nursery, Inc. v. California Grape Rootstock Improvement Commission*
11 (2015) 239 Cal. App. 4th 1000, 1012. A trial court rendering a statement of decision
12 under CCP 632 is required only to state ultimate rather than evidentiary facts... and
13 make findings as to material issues which would fairly disclose the determination by the
14 trial court..." *Kzensky v. City of Merced* (1998) 65 Cal. App. 4th 44, 66. It is well
15 settled that objections to a statement of decision that do not raise issues of omission or
16 ambiguity – but instead merely disagree with the court's findings – are invalid under
17 Section 634. *Duarte Nursery* at 1013.)

18 Given this limiting statutory overview, case law has further refined and clarified
19 the requisite legal parameters for a trial court's statement of decision.

20 In *Muzquiz V. City of Emeryville*, 79 Cal. App. 4th 1106, 1124-1125 (2000) the
21 court indicated:

22 A statement of decision need not address all the legal and factual issues
23 raised by the parties. Instead, it need do no more than state the grounds
24 upon which the judgment rests, without necessarily specifying the particular
25 evidence considered by the trial court in reaching its decision... In other
26 words, a trial court rendering a statement of decision is required only to set
27 out ultimate findings rather than evidentiary ones.

28 Accord, *In re Marriage of Williamson* 226 Cal. App. 4th 1303, 1318 (2014)

Also, the court in *Thompson v. Asimos*, 6 Cal. App. 5th 970, 983 (2016)
determined:

1 The court's statement of decision is sufficient if it fairly discloses the courts
2 determination as to the ultimate facts and material issues in the case. When
3 this rule is applied, the term "ultimate fact" generally refers to a core fact,
4 such as an essential element of a claim. Ultimate facts are distinguished
5 from evidentiary facts and from legal conclusions.

6 Thus, a court is not expected to make findings with regard to detailed
7 evidentiary facts or to make minute findings as to individual terms of evidence.

8 [Internal quotation marks and citations omitted.]

9 See also *People v. Casa Blanca Convalescent Homes, Inc.*, 155 Cal. App. 3d 509,
10 524 (1984) (a trial courts statement of decision "is required only to state ultimate facts
11 rather than evidentiary facts."); *Altavion v. Konica Minolta Systems*, 226 Cal. App. 4th
12 26, 45 (2014) (statement of decision "is deemed adequate if it fairly discloses the
13 determinations as to the ultimate facts and material issues in the case. [Internal
14 quotation marks omitted]).

15 "Ultimate facts or findings are those which are "an element of a claim or
16 defense." *Almanor Lakeside Villa Owners Assn. v. Carson*, 246 Cal. App. 4th 761, 777
17 (2016). See, e.g., *Yield Dynamics, Inc. v. TEA Systems Corp.*, 154 Cal. App. 4th 547,
18 559 (2007) (in *Trade Secret Case*, statement of decision adequately disclosed Plaintiff's
19 failure to prove independent economic value and injury); *Muzquiz*, 79 Cal. App. 4th at
20 119 (in age discrimination case, the "ultimate issue" was whether [Plaintiff] had met her
21 burden of proving that the city discriminated against her because of her age.")

22 In this Eminent Domain action, Liberty objected to the Towns right to take the
23 Apple Valley Water System. The court clearly set forth the ultimate issues to be
24 determined in its Tentative Statement of Decision:

25 **First:** Do the public interest and necessity require the Town's Project? (Code of
26 Civil Procedures section 1240.030 (a).)

27 **Second:** Is the Towns Project planned in the manner that will be most compatible
28 with the greatest public good and the least private injury? (Code of Civil
Procedures section 1240.030(G).)

* * * * *

1 **Fourth:** Is the use for which the Town seeks to take Liberty's property a more
2 necessary public use than the use to which Liberty's property is presently
3 devoted? (Code of Civil Procedures section 120.610).

4 Over 85 pages of discussion and analysis the court ultimately concluded that
5 Liberty had rebutted the statutory presumptions established by Eminent Domain law for
6 the taking of its property for use as a municipal water utility, and sustained Liberty's
7 objections to the Towns right to take the Apple Valley Water System.

8 In reaching this disposition the court dedicated considerable discussion and
9 analysis in ruling on each of these 3 ultimate issues, spanning over 70 pages, including
10 extensive citations to the record of evidence presented by the parties as well as the
11 corresponding legal basis, for its rulings. The court will observe as well that each of the
12 3 ultimate material issues presented numerous related sub-issues which the court also
13 addressed in reaching its ultimate disposition.

14 The court will observe that the Towns objections include 105 different questions
15 posed to the court. While the court initially spent considerable time in considering
16 these questions for response, in the end the court ultimately determined that such
17 questions are beyond the purview of the requisite legal parameters for a statement of
18 decision far beyond what the court had already provided. This issue was addressed in
19 *Casa Blanca*, where there was a request for the trial court to respond to 75 questions.
20 This was rejected by the 4th District Court of Appeal:

21
22 Such a requirement cannot be made of the court. Casa Blanca seeks an
23 inquisition, a rehearing of the evidence. The trial court was not required to
24 provide specific answers so long as the findings in the statement of decision
25 fairly disclose the court's determination of all material issues. (*Casa Blanca*,
155 Cal. App. 3d at 525 [citation omitted]).

26 Also, in *Muzquiz* 79 Cal. App. 4th at 1126 (trial court was not required to address
27 how it resolved intermediate evidentiary conflicts, or respond point by point to the
28 various issues posed in appellants request for a statement of decision". See also *Yield*
Dynamics, 154 Cal. App. 4th 558 (Plaintiff posed 32 questions"); and *In re Marriage of*
Williamson 226 Cal. App. 4th at 1319 (trial court not required to provide answers to 147

1 questions when the statement of decision fairly disclosed the determination of the
2 controverted issues).

3 As a result, the court will decline the Towns invitation to further engage in a
4 detailed point by point response to the questions posed given the courts detailed
5 discussion of the ultimate material issues to be determined.

6 Notwithstanding, the court will make several general observations. Despite
7 contentions to the contrary, in the court's view this was not a writ case. It was a non-
8 conclusive Presumption Case, in which the necessity elements were to be judicially
9 determined by the court following a full trial held on the merits. See, e.g., *City of*
10 *Carlsbad v. Wright*, 221 Cal. App. 2d 756; *City of Los Angeles v. Keck* 14 Cal. App. 3d
11 920; *San Bernardino County Flood Control District v. Griabowsky*, 205 Cal. App. 3d 885.

12 The parties treated and litigated this case as a full evidentiary adjudication on
13 the merits which included the presentation of post resolution of necessity (RON)
14 evidence. There does not appear to be anything in SB 1757 that limits the justiciability
15 of these issues to facts existing as of the date the condemner adopted its RON. In fact
16 the court allowed the parties considerable latitude in the full presentation of all
17 evidence they believed necessary for the full presentation of their case. The court
18 obliged most if not all reasonable efforts to present evidence deemed relevant to this
19 case.

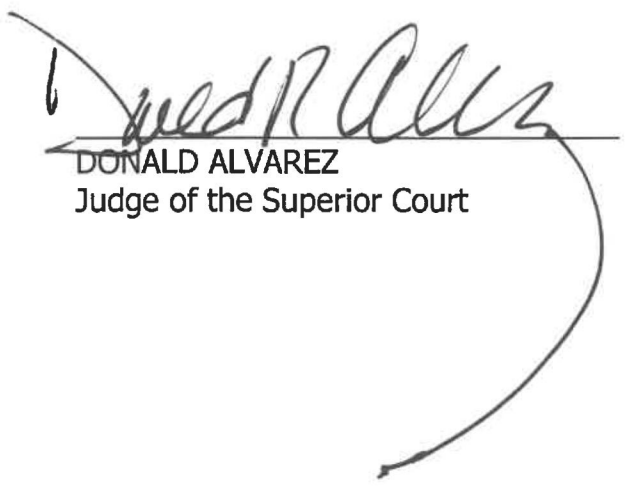
20 Additionally, the court did consider the Town's proposal that the matter be
21 remanded to the Town Council for consideration of post-RON evidence. However, on
22 review, the court found nothing in the Eminent Domain law that allows for such a
23 remand, nor is the court aware of any citation to authority that supports such a
24 request. As a consequence the court did not seriously explore in that direction.

25 In sum, while the court initially engaged in an exhaustive review of the subjects
26 of the Town's objections including the 105 questions posed to the court, including an
27 issue by issue analysis, in the end it is the court's view that the Tentative Statement of
28 Decision thoroughly discloses the courts resolution of the ultimate issues to be decided
and far exceed the law's requirements for a proper statement of decision. The court

1 properly placed the burden of proof on Liberty and found that Liberty met its burden.
2 It appears that most of Towns objections primarily seek to reargue the factual and legal
3 basis for the court's decision which would be improper and beyond the required legal
4 parameters for a statement of decision.

5 The court will overrule Towns objections and adopt its Tentative Statement of
6 Decision as the Final Statement of Decision subject to the minor modifications
7 requested by Liberty in Part 11 of its Response to Towns objections. Liberty is ordered
8 to prepare and submit a Final Proposed Judgment/Order of Dismissal within 10 days.
9 Town shall file objections, if any, to the Proposed Judgment/Order of Dismissal within
10 10 days of its service. The court will then adopt the Final Judgment.

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12 Dated this 7 day of October, 2021

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17 DONALD ALVAREZ
18 Judge of the Superior Court
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

SAN BERNARDINO DISTRICT, CIVIL DIVISION

TITLE OF CASE (ABBREVIATED): In the Matter of

TOWN OF APPLE VALLEY, v. APPLE VALLEY RANCHOS WATER COMPANY, et al

CASE NUMBER: CIVDS1600180

DECLARATION OF SERVICE BY MAIL

My business address is: San Bernardino Superior Court, 247 West Third Street, San Bernardino, California 92415.

I hereby declare that I am a citizen of the United States, over the age of 18, employed in the above-named county, and not a party to nor interested in this proceeding. On October 12, 2021, I deposited in the United States mail at San Bernardino, California, a sealed envelope (postage prepaid) which contained a true copy of the attached:

NAME OF DOCUMENT:

**RULING ON OBJECTIONS TO TENTATIVE STATEMENT OF
DECISION**

Name and Address of Persons Served:

**BEST BEST & KRIEGER, LLP
3390 University Avenue, 5th Floor
P.O. Box 1028
Riverside, CA 92502**

**MANATT PHELPS & PHILLIPS, LLP
2049 Century Park East, Suite 1700
Los Angeles, CA 90067**

At the time of mailing this notice there was regular communication between the place of mailing and the place(s) to which this notice was addressed.

I declare under penalty of perjury the foregoing to be true and correct.

DATED: October 12, 2021

by


Nicci Martinez
Administrative Assistant II