



EDC COB &lt;edc.cob@edcgov.us&gt;

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**Fwd: BOS calendar item #4, 9/10/19 Legistar # 19-1296**

1 message

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**Larry Weitzman** <larryb58tc@gmail.com>  
To: edc.cob@edcgov.us

Mon, Sep 9, 2019 at 4:57 PM

----- Forwarded message -----

From: **Larry Weitzman** <larryb58tc@gmail.com>

Date: Mon, Sep 9, 2019 at 4:47 PM

Subject: BOS calendar item #4, 9/10/19 Legistar # 19-1296

To: &lt;cob@edcgov.us&gt;, &lt;bosone@edcgov.us&gt;, &lt;bostwo@edcgov.us&gt;, &lt;bosthree@edcgov.us&gt;, &lt;bosfour@edcgov.us&gt;, &lt;bosfive@edcgov.us&gt;, Donald Ashton &lt;don.ashton@edcgov.us&gt;

To the Clerk of the Board, Please put this in the record regarding item #4 (legistar item 19-1296) tomorrow and distribute to all BOS members.

Sincerely,

Larry Weitzman  
Placerville, Ca

Gentlepersons, I am aware that the Court of Appeal is ready to render a decision on the matter of Austin vs. EDC, et al. The historical statistical probability of a reversal of the Superior Court judgement by the C of A is about 5%. Another words, about one in 20 cases that are appealed are reversed. That means, statistically, the Austins have a 95% chance of prevailing and the Superior Court ruling on the demurrer will be upheld. There will be no county defenses after that and the trial court will issue after "briefing" or hearing a writ of mandate ordering the refund of perhaps as much as \$75 million dollars back to the property owners of record. The Walker case clearly said with no if and or buts if the Nexus studies are not timely filed (every five years) that the money on account in the MFA accounts must be refunded to the property owners of record. The ruling by the Superior Court said that monies that are continued to be spent after the study due date must also be refunded.

I am also aware that there is a gov't code section 24054 that says: "Any officer authorizing, aiding to authorize, auditing, allowing, or paying any claim or demand upon or against the treasury of any county, or any fund thereof, in violation of [law](#) or of the constitution is liable personally..."

Gov't Code section 24000 says that officer means among others, a BOS member and an administrative officer.

If the court renders a judgement in favor of the Austins, according to this statute, the payments made to others from MFA funds which all must be approved by BOS members have been made in violation of the law. The BOS was informed of the violation going back to about March of 2013 and since 2015 I have informed the BOS orally and in writing several times that continued collecting of funds, paying funds from the MFA accounts and not refunding monies to the appropriate property owners was violating the MFA. These include TIM Fee payments, and other special district MFA fees. While you think you may have an indemnity agreement with respect to a small portion of this, it doesn't cover most of the MFA fees and there may be questions about the indemnity agreement.

I suggest you do several things tomorrow:

1. Pull item number four from the consent calendar.
2. Ask County Counsel for a written opinion of your potential PERSONAL liability regarding the actions of the BOS and its members with respect to the MFA Pursuant and in conjunction with GC 24054.
3. Have individual independent third part attorneys give you a written opinion as well.

Sincerely,

Larry Weitzman  
Placerville