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December 1, 2019 Newsletter

TOPICS: WHAT IS TAKING SO LONG??

DECEMBER 2019 APPEARANCE DATES

CODE 49, STATUTE 47506 - DETAILED STUFF FOR THE KEEN

WHY WE'RE A SMALL GROUP FOR NOW

IT'S NOT TOO LATE TO PARTICIPATE

WHAT IS TAKING SO LONG??

We submitted our first of many small claims one year ago and still have a Round One hearing ahead of us. Why is this taking so long?

January to March 2019 - Scheduling Issues

We had to follow protocol, scheduling ourselves into the court calendar in groups of 3 or 4 where possible. 40+ plaintiffs were involved.

Things changed. We were to forget the March dates we'd selected and pick Tuesdays in April.

Yet another change. We were to scrub our plans for April and choose 3 Tuesdays in May. While all this may appear to the outside observer that the small claims court scheduling process was dysfunctional, the opposite is true. Increasingly aware that we were a large group, the court created a pliable method of getting many of us to appear together, a unique approach for this court.

May 2019 - Our first turn to speak.

During the rebuttal, the defense presented witnesses and, at the last moment, tossed in a hand grenade - Code 49, Statute 47506. Briefly, the statute says anyone who files a claim regarding airport noise must have bought their current home before 1980. It's discriminatory and non-sensical, yet there we were.

June 2019 - The trial ended.

Weeks after the May bombshell, it occurred to us that maybe we should check the validity of the defense's claim. We were able to come up with a few aspects in our limited research window that we presented in court on the last finishing up day. The judge announced she'd render her verdict at a future date.

August 2019 - The judge ruled

The judge ruled in favor of the defense for the 30+ people who'd bought homes **after** 1980, and in favor of the ten plaintiffs whose current homes were purchased **before** 1980.

September, October 2019 - We resumed filing for the next round

We collected filings for Round Two. Not surprisingly, almost half of those who "lost" in Round One declined to continue, certain the home-before-1980 law was an insurmountable obstacle. Nine of the 10 people who "won" decided to continue.

November - Scheduled hearings postponed

The first group to initiate Round Two was scheduled to appear; the defense was granted a month's postponement until mid-December.

The defense also filed an appeal against the 10 who'd "won". Three days before the scheduled hearing, the defense requested a postponement until at least mid-January; the court re-scheduled the appeal hearing to take place in mid-December.

And THAT'S why it's taken soooo long.


DECEMBER 2019 APPEARANCE DATES IN REDWOOD CITY


December 3 - the start of Round Two testimonies

December 10 - the next group of plaintiffs appear

December 16 - the appeals process begins against the 10 who'd "won", apparently because their home was purchased before 1980

CODE 49, SECTION 47506, FOR THOSE WHO ARE INTERESTED

 Except for our case, this section has not been mentioned in one single airport noise case in California since it was published in 1980.

 Highly credible legal authorities have pointed out Section 47506 is part of a federal statute to be applied when people make claims in federal courts against federal entities, such as the Federal Aviation Authority; it does NOT apply to local airport noise claims.

Local airport noise (not overhead noise) is the responsibility of state and local governments.

“Proprietor’s exemption” means the City and County of SF is the owner of SFO and is the airport’s proprietor. The City cannot defer the issue to the federal government’s regulations. The California Supreme Court ruled in 1970 that federal regulations do not bar a nuisance action against a city-owned airport...as a result of noise from aircraft using the facility.

“The FAA has the sole authority to regulate the use of airspace. [This authority] does not extend to regulation of ground facilities.”

City of Burbank, 1999, California Court of Appeals

Airport proprietors are primarily responsible for planning and implementing action designed to reduce the effect of noise on residents of the surrounding area. Such actions include....noise abatement ground procedures.

FAA Aviation Noise Abatement Policy

The FAA will encourage airport proprietors, who are legally responsible for the effect of aircraft noise on the surrounding community, to assess their particular noise problem and, where local authorities determine there is a significant problem, to develop an action plan to reduce the impact of the noise. That...plan should include...a formal noise abatement runway system, control of ground operations, and preferential arrival and departure routes.

FAA Aviation Noise Abatement Policy

WHY WE’RE STILL A RELATIVELY SMALL GROUP OF ~ 60 PEOPLE

Our main source of communicating with others has been via NextDoor, an online chat room that randomly transmits (or not) messages to others nearby.

If the court agrees that it is incorrect to apply this home-before-1980 statute to our local situation, and that we are negatively affected by the runway noise, we will escalate to broader means of contacting others in our community.

IT’S NEVER TOO LATE TO PARTICIPATE

<https://www.sforunwaynoise.com/how-to-get-started>

Please let me know if you have questions. Thank you.

Sally Meakin

sallymeakin@yahoo.com