

Court Denies Interim Relief; Leaves Open EPASD Winning Case on Merits

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San Mateo Superior Court Judge Roger T. Picquet denied East Palo Alto Sanitary District's (EPASD's) Motion for Preliminary Injunction today, regarding the City of East Palo Alto's attempt to take over the District. The judge left open the possibility that EPASD could win the court case on the merits: "The District will have a significant burden (but not impossible) to demonstrate that LAFCo has abused the discretion afforded to it under the law," states the ruling (attached). "The District looks forward to a full review in Court," said Board President Dennis Scherzer.

If the City ultimately gets its way, it plans to make residents subsidize the upsizing of sewer pipes required by large new developments such as for-profit developer John Sobrato's upcoming complex at **2111 University and another on an adjacent parcel at 2160 Euclid Ave.** Said Board President Dennis Scherzer: "We strive to provide excellent sewer services to residents at a fair price. Existing rate payers should pay for ongoing operations and maintenance, but it is only fair that developers building large projects should pay for the upsizing of pipes."

If the City takes over the District, Menlo Park residents living in the EPASD district will lose their vote to hold agency leaders accountable for rates, since Menlo Park residents cannot vote for East Palo Alto City Council members. Said Scherzer: "This amounts to taxation without representation."

The lawsuit by EPASD against the City of East Palo Alto cites Abuse of Discretion. Court documents raise concerns that the City of East Palo Alto has a poor track record of linear infrastructure management, having contracted out its water system to a third party in 2001: "With franchise fees charged by the City, and additional fees charged by the contractor in order to yield profit, the City's water rates spiked significantly, harming economically vulnerable ratepayers." <https://www.smcgov.org/media/145834/download?inline=>). The same scenario can be expected if the City takes over the sewer infrastructure from EPASD. The trial is expected in late 2024 or in 2025.

In other agency actions, the San Mateo County Local Agency Formation Commission (LAFCo) staff announced that according to its internal counting process, citizen group Residents for an Independent Sewer District (comprised of Menlo Park and East Palo Alto volunteers) fell short of gathering Protest Letters from the required 25% of property owners in the District in order to place the takeover question on the November ballot. The volunteers submitted an impressive number of Protest Letters, over 1000, from a base of 4285 property parcels in the District. Said Menlo Park resident and newly-appointed EPASD board member Kelly Fergusson (speaking as a resident): "Volunteers were hampered by LAFCO's refusal to notify residents of the takeover attempt. If LAFCO hadn't purposefully kept residents in the dark, volunteers would have had a chance. Volunteers had to educate residents from scratch about this unprecedented attempted take-over in just 100 days, which turned out to be an impossible task. I'm so proud we got such a high count of Protest Letters despite LAFCO's secrecy. These numbers show the resident's high degree of concern for fairness in rate setting."

2024-07-22 Note: Corrected sentence shown in **[bold]**.

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