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Oil producers suing city and environmental groups

By Justin Kloczko
Daily Journal Staff Writer

LOS ANGELES — Oil producers will move forward with their lawsuit alleging a back-door settlement was reached between the city and environmental groups seeking to correct drilling disparities in Los Angeles after a state court judge Monday denied the city's anti-SLAPP motion.

The city maintained that the litigation and ensuing settlement reached last year to shield poorer parts of the city from excessive oil drilling was protected speech.

Los Angeles County Superior Court Judge Terry A. Green disagreed, stating the issue was the implementation of an unprotected regulation.

"We have a settlement agreement that is extremely misleading," said Green. "The gravamen of the complaint here is the implementation of a government regulation which is clearly not protected by anti-SLAPP," he said.

California Independent Petroleum Association, which was allowed intervenor status in the lawsuit by Green last summer, alleged in its cross-complaint that the city and the nonprofits locked oil producers out of settlement negotiations, which resulted in a series of closed-door meetings to institute new regulations. The oil producers alleged those new rules hiked the fee for drilling permit applications from $90,000 to as much as $157,000. As a result, the group said its due process rights have been violated and is seeking to block enforcement of the regulations.

Wells are found all over the city, but drilling sites were allowed to be significantly closer to schools and playgrounds in impoverished areas, according to the underlying lawsuit. *Youth For Environmental Justice v. City of Los Angeles*, BC600378 (L.A. Super. Ct., filed Nov. 6, 2015).

Plaintiffs' attorneys, who sued the city over accusations that it rubber-stamped oil projects in low-income neighborhoods, exposing people to health and safety risks and violating state environmental laws, contended the settlement agreement does not increase fees.

Gladys Limón, plaintiff's attorney at Communities for a Better Environment, said the judge did not at any point tell parties they couldn't enter into a settlement. She said a U.S. Supreme Court ruling established as long their independent claims are not disposed, intervenors can be precluded from a settlement dispute. *Firefighters v. City of Cleveland*, 478 U.S. 501 (1986).

The city and environmental groups said the language in question, known as Zoning Memo 133, was not part of the settlement agreement.

"Memo 133 on its face, the plaint language, respects existing permits and existing conditions," said Limón.

"They disagree," said Green, referring to the oil producers.

Gibson Dunn & Crutcher LLP attorney Jeffrey Dinzter, who represents the oil group, said the city slipped the memorandum into the agreement knowing they would run into legal trouble if they did it any other way. He said the city still has the power to go back and reopen a holder's permit.

"We have clearly vested property rights in these operations and the city's memorandum, Memo 133, clearly invades upon it," said Dintzer.

The settlement recognizes a new set of policies and procedures instituted by the city's zoning administration, including requiring public notice for projects seeking California Environmental Quality Act exemption, said attorneys from both sides. All property owners and occupants within a 1,500-foot radius of a project must be notified and provided with a 35-day comment period prior to approval, they said.

Green, who stayed the case in order for all parties to have a mandatory settlement conference, voiced his displeasure throughout Monday's hearing with the way the settlement agreement was executed. He questioned much of what the city and environmental attorneys said regarding applications. At one point he said, "I think CIPA might have a shot here."

"This memo only applies to only future applications," Deputy City Attorney Jennifer Tobkin said.

"There is certainly a debate on that," Green said. "I'm still discouraged by the way it was done."

justin_kloczko@dailyjournal.com