

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

West District, Santa Monica Courthouse, Department N

SC129388

JOHN C. BEDROSIAN, ET AL. VS MOHAMED HADID, ET AL.,

March 1, 2023

2:30 PM

Judge: Honorable Craig D. Karlan
Judicial Assistant: S. Hwang
Courtroom Assistant: S. Mixon

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Ruling on Submitted Matter Re: Motion for Attorney's Fees

The Court, having taken the matter under submission on 01/17/2023 for Hearing on Motion for Attorney Fees filed by Plaintiffs/Petitioners, now rules as follows:

***** RULING *****

Plaintiffs John C. Bedrosian, Judith Bedrosian, Joseph Horacek, and Beatriz Horacek's Motion for Attorney's Fees is GRANTED in the reduced amount of \$2,614,915.53.

Plaintiffs John C. Bedrosian, Judith Bedrosian, Joseph Horacek, and Beatriz Horacek to give notice.

REASONING

Plaintiffs John C. Bedrosian, Judith Bedrosian, Joseph Horacek, and Beatriz Horacek ("Plaintiffs") move the Court for an order awarding them \$3,486,028.07 in attorney fees incurred in connection with their successful claims for injunctive relief against Defendants Mohamed Hadid and 901 Strada LLC ("Defendants"). Plaintiffs argue they are the prevailing party in this action; the case involved the enforcement of an important right affecting the public interest, i.e., the enforcement of building code standards to protect the public health and safety of the Bel Air community; a significant nonpecuniary benefit, i.e., the appointment of a receiver and order requiring the demolition of the structure, was obtained for the benefit of the community; the necessity and financial burden of private enforcement make the award appropriate because of the significant cost to litigate this matter; and such fees should not be paid out of the recovery in the interest of justice. Defendants argue the demolition orders obtained by Plaintiffs benefited Plaintiffs alone and were not for the benefit of the general public or a large class of people; the orders do not transcend Plaintiffs' personal interests in the outcome of the litigation; and the fees

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sought are not reasonable, particularly given the majority of the fees include the costs of litigating their civil claims sought by Plaintiffs which do not relate to services provided in obtaining the demolition orders.

Code of Civil Procedure section 1021.5 allows the Court to “award attorneys’ fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement . . . [is] such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any.” This statutory provision codifies what is known as the private attorney general doctrine. (*Vasquez v. State of California* (2008) 45 Cal.4th 243, 250.) “The doctrine rests on the recognition that privately initiated lawsuits, while often essential to effectuate important public policies, will as a practical matter frequently be infeasible without some mechanism authorizing courts to award fees.” (*Id.*) The purpose of the doctrine “is to encourage suits enforcing important public policies by providing substantial attorney fees to successful litigants in such cases.” (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 565.)

Notably, “[a]n award on the ‘private attorney general’ theory is appropriate when the cost of the claimant’s legal victory transcends his personal interest, that is, when the necessity for pursuing the lawsuit placed a burden on the plaintiff out of proportion to his individual stake in the matter.” (*County of Inyo v. City of Los Angeles* (1978) 78 Cal.App.3d 82, 89.) In other words, “attorneys[’] fees are awarded when a significant public benefit is conferred through litigation pursued by one whose personal stake is insufficient to otherwise encourage the action.” (*Beach Colony II v. California Coastal Commission* (1985) 166 Cal.App.3d 106, 114.) Code of Civil Procedure section 1021.5 “was not designed as a method for rewarding litigants motivated by their own pecuniary interests who only coincidentally protect the public interest.” (*Ibid.*) Rather, the statute “acts as an incentive for the pursuit of public interest-related litigation that might otherwise have been too costly to bring.” (*Coalition for a Sustainable Future in Yucaipa v. City of Yucaipa* (2015) 238 Cal.App.4th 513, 520-521.)

Here, it is easy for the Court to conclude that Plaintiffs prevailed in this action against Defendants, as a jury verdict was rendered in their favor. Further, the Court has already concluded on many occasions that the structure presented an immediate danger to Plaintiffs, surrounding neighbors and a main access road to Bel Air, i.e., Stone Canyon Road. Thus, the Court finds Plaintiffs’ action conferred a benefit on the general public, specifically surrounding neighbors and all those who travel on the adjacent public road, and that Plaintiffs were the

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prevailing party in an action which resulted in the enforcement of an important right affecting the public interest, specifically the public's right to safety and the public's interest in governmental enforcement of statutory regulations relating to construction projects and building safety.

As to whether the necessity and financial burden of private enforcement was such as to make an attorney fee award appropriate here, the Court is cognizant that Plaintiffs' complaint seeks redress for both public and private concerns, i.e., an unstable hillside and a home that was illegally overbuilt and improperly structurally supported (public) versus the alleged diminished value of their homes and their loss of privacy and serenity (private). (See Third Am. Compl. ¶¶ 4 - 8.) The Court thus considers this motion as to the fees that were necessary for the private enforcement of the public concerns raised by the Plaintiffs.

Again, through the course of this action, Plaintiffs have alleged that the hill overlooking their residences was rendered unstable and that the home was illegally overbuilt and improperly structurally supported; the Court has issued orders stating that Respondent City of Los Angeles (the "City") failed to prevent these issues. Furthermore, for over 8 years, the City failed to obtain compliance from Mr. Hadid to remedy the known violations relating to the hillside and the structure, beginning as early as February 24, 2011, i.e., the date of LADBS' first Order to Comply, through December 2, 2019, the date this Court appointed a receiver to take control of the property.

The Court is cognizant that the City prosecuted Mr. Hadid for his numerous code violations. In fact, on July 20, 2017, in criminal Case No. 5PY03637, as terms and conditions of his probation, the following were ordered:

1. "[T]o deliver to LADBS the geotechnical engineer's proposed slope stabilization designed (sic) and plan report. The SSDP shall include the slope and soils analysis, proposed design, and cost estimate to stabilize the hillside of the property. The SSDP shall be delivered to LADBS no later than 60 days from today's date."
2. "In the event the single-family home is not completed, the existing structure shall be demolished and the slope to be stabilized pursuant to the SSDP as determined by the City."
3. "If the Defendant fails to complete the work described in the SSDP within the period determined by LADBS or fails to complete the timely construction or demolition of the structure at the property as determined by LADBS, Defendant will agree to the appointment of a receiver for the property."

(City's RJN, August 13, 2019, Ex. E, pages 25-27.)

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The slope was never stabilized. The structure was not brought into compliance. And Mr. Hadid would ultimately state under oath that he did not have the funds to demolish the property. Unfortunately, a completion bond, which was ordered at Mr. Hadid's sentencing, was eliminated as a term and condition of probation less than 60 days later; the minute order does not reflect an objection from the City, and no explanation relating thereto is provided.

In summary:

1. The hillside at issue was destabilized through illegal and unpermitted grading.
2. The residential structure was overbuilt, including an entire unpermitted third floor.
3. An unpermitted pool deck was built that extended over the destabilized hillside.
4. The basement was excavated, also without a permit, to build a below-ground level entertainment room.
5. Multiple "luxury suites," with city views, were built below the unpermitted pool deck; the "luxury suites" were not permitted.

Over 100 caissons/piles were drilled into the hillside to support this massive structure. In October 2019, first the City, then the Plaintiffs and the Court learned that dozens and dozens of these caissons/piles were not built to code. In response to the Hearing re: Appointment of a Receiver, the City argued that although the structure was not code compliant, there was no evidence that "the structure show[ed] signs of being subject to an immediate or imminent collapse." (City's Resp. to Plaintiffs' Ex Parte App. Re: Receiver, Nov. 15, 2019.) In reaching this conclusion, the City relied on Defendant's expert, Carl Josephson. The Court did not agree and appointed a receiver. It would later be revealed that Mr. Josephson's analysis was based on flawed calculations. (See Court's Order Approving Receiver's Demolition Plan and Sale of Receivership Property, December 10, 2020, ¶ 8.)

In July 2020, during a meeting with a potential purchaser for the subject property, the City informed the prospective purchaser that an immense retaining wall that provided support for the rear portion of the property was not built as per code. The City's position resulted in the prospective purchaser opting not to purchase the property; the sale price for the property ultimately dropped several million dollars as the result of this revelation. Though the City correctly noted that all permits were revoked in 2014, which would include those relating to retaining walls, the City had not previously highlighted any issue with the retaining walls, including in November 2019 when arguing to the Court there was no evidence "the structure show[ed] signs of being subject to an immediate or imminent collapse."

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Simply put, the Plaintiffs did everything within their power to implore the City to take appropriate action; they were unsuccessful. Even after the Court appointed a receiver, the City failed to seek an extension of Defendant’s probation, for example, to address the still needed slope stabilization for which the receiver has no available funds. The City made its position clear: “City Taxpayers should not carry the costs of abating the illegal structure built by the Developer Defendants...” (City’s Oppo. to Petitioners’ Mot. for Order, p. 7, lines 4-6.) “The cost of removing this private development is properly borne by private investment interests or a super-priority lien on the Property, not public taxpayers under an inapplicable code provision that would only provide a junior priority lien.” (City’s Br. Resp. to Questions, p. 2, lines 21-24.) Given the City’s clearly articulated position, and given the City was unsuccessful for such a lengthy period in obtaining compliance from Mr. Hadid, Plaintiffs were left with no other option than to assume the financial burden of private enforcement of the building code, for the safety and benefit of the community.

Plaintiffs argue the litigation costs they incurred “dwarfed the total amount recovered” (Mot., p. 15, l. 11), as Plaintiffs claims of personal damage were only partially accepted by the jury. Nonetheless, these concerns go to the reasonableness of the fees, not whether an award of fees is proper. Moreover, the Court is cognizant that “[p]rivate attorney general fees are not intended to provide insurance for litigants and counsel who misjudge the value of their case, and vigorously pursue the litigation in the expectation of recovering substantial damages, and then find that the jury’s actual verdict is not commensurate with their expenditure of time and resources.” (Satrap v. Pacific Gas & Electric Co. (1996) 42 Cal.App.4th 72, 79-80.) Such is not the case here.

Plaintiffs seek compensation for 6,805.8 hours of work. As an initial matter, the Court determines each of the hourly rates billed by Bird Marella’s and Manatt Phelps & Phillips’ timekeepers to be reasonable. The Court is also aware that over \$4 million in additional attorney’s fees has been incurred (and paid), fees that are not being sought pursuant to this motion. The Court, however, has examined the entirety of the attorney’s fees and determines that even as to the subset of fees sought pursuant to this motion, there is an overlap in the purpose and benefit provided to the litigation as the result of the services rendered, such that the Court reduces the fees sought.

Specifically, Manatt Phelps & Phillips’ incurred 2,893.6 hours representing Plaintiffs, which resulted in attorney’s fees of \$1,509,096.96. Plaintiffs paid Manatt an additional \$288,340.03 for costs. Here, Plaintiffs are only seeking to recover fees for 2,538.9 of those hours, for attorney’s fees of \$1,381,434.90. Though a percentage of these fees certainly contributed to the demolition

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of the structure built at 901 Strada Vecchia Road, they also equally contributed to Plaintiffs claims for damages. As such, the Court reduces the award to \$905,567.92, which constitutes 100% of the fees sought relating to Expert Retention and Discovery and Pursuit of Court-Ordered Demolition of Property, no fees for defending against the counterclaim for extortion and settlement discussions, and one-third of the remaining fees sought, as again, these fees also equally benefitted Plaintiffs' pursuit of their causes of action for damages.

With respect to fees for Bird Marella, between December 2018 and the present, attorneys and other personnel at Bird Marella worked a total of 13,786.5 hours, for which Plaintiffs paid Bird Marella \$6,049,777.95, plus \$696,574.45 in costs. As to this Motion for Attorney's Fees, Plaintiffs only seek to recover fees for 4,266.9 of the hours billed by Bird Marella; Plaintiffs argue these hours were required to obtain and then defend the demolition orders and to ensure that demolition occurred. The 4,266.9 hours sought resulted in attorney's fees of \$2,104,593.17. Again, though a percentage of these fees certainly contributed to the demolition of the structure built at 901 Strada Vecchia Road (and the protection of the orders relating thereto), they also aided Plaintiffs claims for damages. As such, the Court reduces the award to \$1,709,347.61, which constitutes 100% of the fees sought relating to Expert Work, Pursuit of Court Ordered Demolition of Property, Post-Appointment Work Relating to Demolition and Safety, and Defend Appeal of Demolition Order. The Court does not award fees for defending against the extortion claim, nor for settlement discussions. The Court reduces the remaining Bird Marella fees by 25% (as opposed to a 33.3% reduction for those of Manatt), as the work performed by Bird Marella directly impacted the demolition and related orders to a greater extent.

As such, the Court concludes Plaintiffs are entitled to recover a reduced attorney fees award of \$2,614,915.53. Accordingly, Plaintiffs John C. Bedrosian, Judith Bedrosian, Joseph Horacek, and Beatriz Horacek's Motion for Attorney's Fees is GRANTED, in the reduced amount of \$2,614,915.53.

*** END OF RULING ***

Clerk to give notice to Plaintiffs John C. Bedrosian, Judith Bedrosian, Joseph Horacek, and Beatriz Horacek who shall give notice to all other relevant parties.

Certificate of Mailing is attached.