

1 Donald F. Woods, Jr. (SBN 51854)
2 Attorney at Law
3 dwoods@donaldwoodslaw.com
4 765 Ermont Place
5 Santa Monica, California 90402
6 Telephone: (213) 344-7438
7 Facsimile: (310) 459-9387

8 Attorney for Plaintiff
9 1041 20th Street LLC

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES

13 1041 20TH STREET LLC, A LIMITED LIABILITY
14 COMPANY,

15 Plaintiff/Petitioner,

16 v.

17 SANTA MONICA RENT CONTROL BOARD, AN
18 AGENCY OF THE CITY OF SANTA MONICA

19 Defendant/Respondent.

20 SAMUEL ANGE AND AMY DE MACENA,

21 REAL PARTIES IN INTEREST.

) Case No. SS 028966

) HON. LAWRENCE H. CHO

) DEPT: K

) TRIAL: 3-5-18

) COMPLAINT/PETTITION: 3-20-17

) Motion Hearing: 1-15-19

22
23 NOTICE OF RULING
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 15, 2019 Plaintiff's motion for attorneys' fees came before the court. Donald F. Woods, Jr appearing for Plaintiff and John Cotti appearing for Defendant Santa Monica Rent Control Board. The Hon. Lawrence H. Cho presiding ruled in accordance with the attached tentative ruling.

Dated: January 15, 2019

LAW OFFICE OF DONALD F. WOODS, JR.

By 
Donald F. Woods, Jr.
Attorney for Plaintiff/Petitioner

DEPARTMENT K LAW AND MOTION RULINGS

If the parties wish to submit on the tentative ruling and avoid a court appearance on the matter, the moving party must contact the opposing party and all other parties who have appeared in the action and confirm that each will submit on the tentative ruling. Please call the court no later than 4:30 p.m. on the court day before the hearing, leave a message with the court clerk at (310) 260-3501, or via e-mail at samdeptk@lasuperiorcourt.org advising that all parties will submit on the tentative ruling and waive hearing, and finally, serve notice of the Court's ruling on all parties entitled to receive service. If any party declines to submit on the tentative ruling, then no telephone call is necessary, and all parties should appear at the hearing personally or by Court Call.

Case Number: SS028966 **Hearing Date:** January 15, 2019 **Dept:** K

CASE NAME: 1041 20TH Street, LLC v. Santa Monica Rent Control Board
CASE NUMBER: SS028966 **COMPLAINT FILED:** 3/20/17
HEARING DATE: 1/15/18
TRIAL DATE: N/A
NOTICE: OK

MOTION: Plaintiff's Motion for Attorney's Fees per CCP § 1021.5 & GC § 800

TENTATIVE RULING*Background*

Plaintiff brought suit against Defendant arising out of a property Plaintiff owned in Santa Monica. Defendant had granted to Plaintiff a Removal Permit on 10/14/93 which allowed Plaintiff to remove the property from Santa Monica Rent Control. Plaintiff then developed the property for the next 20 years and Defendant reaffirmed its holding that the property was removed from rent control. However, on 3/3/16, Defendant reversed its position and held that the property was indeed subject to rent control because the property had been returned to the rental market.

At trial, this Court applied equitable estoppel against Defendant and found in favor of Plaintiff. Plaintiff now seeks attorney's fees under CCP §1021.5 and GC §800.

Merits

With respect to § 1021.5, Plaintiff's motion is **DENIED** as Plaintiff's victory did not confer a significant benefit on a substantial number of persons and the financial burden of his attorney's fees is not out of proportion to his personal stake in litigating the case. *Beach Colony II v. California Coastal Commission* (1985) 166 Cal.App.3d 106, 112. Plaintiff's victory on equitable estoppel grounds was fact specific to it having obtained the Removal Permit. Plaintiff's benefit was personal to it (renting a property outside of rent control restrictions) and did not confer a public benefit.

With respect to GC §800, this Court is inclined to **GRANT** attorney's fees in the maximum amount of \$7,500 as Defendant's decision to renege on its permanent removal of the property appears to be "arbitrary or capricious." Defendant admits that the Removal Permit was issued in error and that Defendant has affirmed the removal status over the past 20 years. Although Defendant has its reasons for why it sought to reverse course after such a long period of time, the decision to do so after having granted a "permanent" removal, while not arbitrary, does seem quite capricious, as partly defined in Webster's Collegiate Dictionary as "a sudden, unpredictable condition change." The public is entitled to rely upon the representations of its government, particularly when the public has sought specific relief that is exclusively within the power of the government to grant. Finally, this Court agrees with Plaintiff that the capricious nature of Defendant's sudden reversal is compounded by the fact that Defendant did not properly seek legal avenues to revoke the Removal Permit or bring a declaratory relief action in Court, either of which would have entailed a public hearing before a neutral authority. For the Defendant to instead just treat Plaintiff as if the Permit had been revoked confirms for this Court the capriciousness of Defendant's actions.

Motion for attorney fees is granted in the amount of \$7,500.

NOTICE

Defendant shall give notice of today's rulings and timely file proof of service thereof.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I declare as follows:

I am a resident of the State of California and over the age of eighteen years and not a party to the within action; my business address is 765 Ermont Place, Santa Monica, California 90402. On **January 15, 2019** I served the foregoing document described as **NOTICE OF RULING** on the interested parties in this action as follows:

by transmitting via facsimile the documents listed above to the fax numbers set forth below on this date. These transmissions were reported as complete without error by transmission reports issued by the facsimile machine upon which the said transmissions were made immediately following the transmissions. True and correct copies of the said transmissions are attached hereto and incorporated herein by this reference.

by placing the documents listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Monica, California, addressed as set forth below.

X by electronic transmission. I caused the documents listed above to be transmitted by electronic mail to the individuals on the service list as set forth below.

by placing the documents listed above in sealed envelopes and affixing pre-paid air bills and causing the envelopes to be delivered to a Federal Express agent for delivery.

by personally delivering the documents listed above to the persons at the address set forth below.

John C. Cotti
Best, Best & Krieger
1230 Rosecrans Avenue, Suite 110
Manhattan Beach, CA 90266
John.Cotti@bbklaw.com

Executed on **January 15, 2019**, at Santa Monica, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Donald F. Woods, Jr.