

LEXSEE 2000 U.S. App. LEXIS 18714

**FEDERAL RESERVE BANK OF SAN FRANCISCO, a Federally-chartered entity,
Plaintiff - Appellant, v. COUNTY OF LOS ANGELES, a municipal corporation,
Defendant - Appellee.**

No. 99-55168

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

2000 U.S. App. LEXIS 18714

July 12, 2000, Argued and Submitted, Pasadena, California

August 1, 2000, Filed

NOTICE:

[*1] RULES OF THE NINTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

SUBSEQUENT HISTORY:

Reported in Table Case Format at: *2000 U.S. App. LEXIS 32537*.

PRIOR HISTORY:

Appeal from the United States District Court for the Central District of California. D.C. No. CV-98-03022-CM. Carlos R. Moreno, District Judge, Presiding.

DISPOSITION:

AFFIRMED.

COUNSEL:

For FEDERAL RESERVE BANK OF SAN FRANCISCO, Plaintiff - Appellant: Theodore F. Bayer, Esq., Andrew A. August, Esq., Boris Z. Liberman, Esq., BAYER, AUGUST & BELOTE L.L.P., San Francisco, CA.

For COUNTY OF LOS ANGELES, Defendant - Appellee: DeWitt W. Clinton, Esq., Albert Ramseyer, Esq., OFFICE OF THE COUNTY COUNSEL, Lloyd W. Pellman, LOS ANGELES COUNTY, Los Angeles, CA.

CALIFORNIA TAXPAYERS' ASSOCIATION,
CALIFORNIA MANUFACTURERS ASSOCIATION,
Amicus: Wm. Gregory Turner, Esq., Sacramento, CA.

JUDGES:

Before: RYMER, KLEINFELD, and PAEZ, Circuit Judges. KLEINFELD, Circuit Judge Concurring.

OPINION:

MEMORANDUM *

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

[*2]

The Federal Reserve Bank appeals the summary judgment in favor of the County of Los Angeles. The Bank challenges the appraisal of its Los Angeles branch office building by the Assessment Appeals Board for property tax purposes for the tax year 1994-95. We have carefully reviewed the record, the order granting summary judgment, and the arguments made on appeal. We affirm for the reasons well stated by the district court. n1

n1 At oral argument the Bank relied on *Mola Development Corp. v. Orange County Assessment Appeals Bd.*, 80 Cal. App. 4th 308, 95 Cal. Rptr. 2d 546 (Cal. App. 2000), which was decided after

the district court rendered its decision. However, *Mola*, is consistent with the line of authority exemplified by *Pacific Mutual Life Ins. Co. v. County of Orange*, 187 Cal. App. 3d 1141, 232 Cal. Rptr. 233 (Cal. App. 1985), which the district court distinguished, while the methodology and appraisal in this case for this limited market building is consistent with *County of Los Angeles v. McDonnell Douglas Corp.*, 219 Cal. App. 3d 715, 268 Cal. Rptr. 294 (Cal. App. 1990); *County of Orange v. Orange County Assessment Appeals Bd.*, 13 Cal. App. 4th 524, 16 Cal. Rptr. 2d 695 (Cal. App. 1993); and *Trailer Train Co. v. State Bd. of Equalization*, 180 Cal. App. 3d 565, 225 Cal. Rptr. 717 (Cal. App. 1986) as well as *Federal Reserve Bank of Minneapolis v. Minnesota*, 313 N.W.2d 619 (Minn. 1981) and *Minnesota v. Federal Reserve Bank of Minneapolis*, 25 F. Supp. 14 (D. Minn. 1938). In sum, nothing about *Mola*, a CERCLA contribution case, causes us to change our conclusion that the district court correctly determined that the Board's methodology was not contrary to law, in excess of discretion, or arbitrary.

[*3]

The Bank also contends that the court abused its discretion by refusing to allow the Bank to depose the appraisers and supervisors who performed and approved the 1993-94 and 1994-95 appraisals. Denying a request for further discovery is only "an abuse of discretion if the movant diligently pursued its previous discovery opportunities, and can demonstrate that allowing

additional discovery would have precluded summary judgment." *Bank of America, NT & SA v. Penguin*, 175 F.3d 1109, 1118 (9th Cir. 1999). The Bank cannot demonstrate that the depositions would have precluded summary judgment. The methodology used in the 1993-94 appraisal was known, its bottom line did not differ significantly from that of the 1994-95 appraisal, and the Bank does not suggest how deposing those involved would have added anything material to the issue before the district court -- whether the Board was arbitrary in deciding to use the income method merely as a check on the cost method in the circumstances of the 1994-95 appraisal.

AFFIRMED.

CONCURBY:
KLEINFELD

CONCUR:

KLEINFELD, Circuit Judge Concurring.

The Assessment Appeals Board corrected those aspects of the county assessor's appraisal that [*4] reflected a mistaken methodology. The Assessment Appeals Board did not use a mistaken methodology, but properly used the reproduction cost less depreciation approach as a ceiling against which to compare the result of the capitalization of income approach based on rental comparables. The Assessment Appeals Board also corrected the assessor's methodological error regarding superadequacy of improvements, and reduced cost by the excess over market standards. Accordingly, the board's methodology was not arbitrary or contrary to law.