



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on March 24, 2017

Title	Agenda Item Type
Court Facilities: Exchange of Equity in Imperial Court Facilities	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	March 24, 2017
Recommended by	Date of Report
Facilities Policies Working Group	February 23, 2017
Hon. Douglas P. Miller, Chair	Contact
Hon. Marla O. Anderson, Vice-Chair	Charles Martel, 415-865-4967 charles.martel@jud.ca.gov

Executive Summary

The Facilities Policies Working Group recommends authorizing and approving the permanent disposition to Imperial County of state equity in two small, permanently closed court facilities in El Centro, California, to (1) resolve a dispute connected with the courthouse transfer process, (2) eliminate the Judicial Council's continuing liability in holding permanently closed court facilities, and (3) realize the value of these assets in fair market value (FMV) dispositions. The two court facilities—the Juvenile Court and the Jail Court—were permanently closed by the Superior Court of California, County of Imperial, in 2013, and are unsuitable to the judicial branch's needs. The superior court fully supports the transfer of these closed court facilities to Imperial County.

Recommendation

The Facilities Policies Working Group recommends that the Judicial Council, effective March 24, 2017:

1. Authorize and approve the permanent disposition of the state's equity interest in the Juvenile Court and Jail Court facilities in El Centro, California, to Imperial County for their fair market value to resolve a dispute connected with the courthouse transfer process; and
2. Delegate to the Administrative Director or his designee the authority to sign all agreements and other documents needed to transfer the state's equity interest in the Juvenile Court and Jail Court facilities in El Centro, California, to Imperial County.

Previous Council Action

There has been no previous Judicial Council action with respect to the proposed equity disposition or the matters underlying the dispute with the county.

Rationale for Recommendation

In late 2008, at the end of the courthouse transfer process provided for by the Trial Court Facilities Act of 2002 (Sen. Bill 1732; Stats. 2002, ch. 1082), Imperial County offered to transfer to the Judicial Council its title to, equity interest in, and responsibility for its share of the El Centro Courthouse. Judicial Council staff accepted that offer and, in the course of negotiations, agreed to convey to the county the council's title to, equity interest in, and responsibility for a separate court facility in the County of Imperial, the Winterhaven Facility, for no consideration if and when the superior court ever ceased operations at that facility (Winterhaven Reversion).¹ In June 2011, Imperial County and Judicial Council staff signed a First Amendment to Transfer Agreement reflecting that exchange, among other things. Judicial Council staff and Imperial County completed all aspects of the transfer and expected transfer of title to follow after State Public Works Board (SPWB) review and approval of that aspect of the transaction.

SPWB staff asked that the terms of the Winterhaven Reversion be revised to provide that (1) Imperial County pay fair market value for the Winterhaven facility in the event of its future transfer; (2) the county be given a noncash credit equal to the FMV of the county's equity in the El Centro Courthouse (El Centro Credit), which the county was transferring to the council; and (3) the county be allowed to use the El Centro Credit as consideration for a future acquisition of the Winterhaven Facility. Based on August 2015 appraisals, the El Centro Credit was worth \$2,415,375 and the FMV of the Winterhaven Facility was \$170,000.

Imperial County rejected those change in terms and argued a failure of consideration, with rescission and an unwinding of the entire transaction as the only appropriate remedy.

¹ The Superior Court of Imperial County did not at the time of the negotiations, nor does it now, have any intention to cease operations at Winterhaven. This offer was made with the full knowledge and participation of the court.

Negotiations ensued and resulted in a joint offer by Judicial Council staff and superior court to transfer permanently to Imperial County the state's equity interest in two small court facilities in El Centro, which the court permanently closed and vacated in June 2013—the Juvenile Court (approximately 1,500 square feet of space at Imperial County's juvenile facility) and the Jail Court (approximately 2,174 square feet of space at the county jail)—with the FMV of these two facilities (\$240,000 and \$170,000, respectively) to be offset against the El Centro Credit. The county accepted this offer, which is now memorialized in a written agreement and other documents.

Approval of the proposed transfer of state equity in the Jail Court and the Juvenile Court would complete the courthouse transfer process in Imperial County, resolve the dispute with the county, eliminate liability inherent in holding permanently closed court facilities, and realize the value of those closed facilities in FMV dispositions. The Superior Court of Imperial County fully approves this transaction, and the SPWB has approved the form of the revised Winterhaven Reversion.

The proposed Winterhaven Reversion agreement with Imperial County comes before the Judicial Council because its terms include the permanent transfer to the county of the Judicial Council's equity interest in the Juvenile Court and the Jail Court. Recent practice has been to bring any permanent dispositions of equity interest in court facilities to the Judicial Council for review and approval.

The provisions of the Trial Court Facilities Act addressing administration of shared-use buildings such as the Juvenile Court and the Jail Court (Gov. Code, §§ 70341–70342) rely on the concept of equity without actually using that word. In particular, section 70342(e) provides that unless the Judicial Council or county otherwise agree, if either party desires to decrease the amount of space it occupies in a shared-use building, it may do so only after offering the other party the space on the same terms and conditions to which it has proposed to transfer the space to a third party (i.e., a market-rate transaction). To be effective, any such transfer must be evidenced by a subsequent agreement that supersedes the shared-use agreement entered into by Judicial Council staff and the county under section 70343.

In this case, the shared-use agreements previously entered into by Judicial Council staff and Imperial County consisted of Limited Use Transfer Agreements, and the proposed agreement in this case is the subsequent agreement superseding these earlier agreements. As described above, Imperial County will be acquiring the Judicial Council's equity interests in the Jail Court and Juvenile Court for FMV consideration in the form of portions of offsets against the El Centro Credit. Because the agreement with the county transferring the equity interests at the Jail Court and Juvenile Court is under authority of section 70342(e), the Judicial Council has the requisite authority it needs to negotiate and execute that agreement.

Comments, Alternatives Considered, and Policy Implications

If the Judicial Council does not approve the proposed transfer of the state's equity interests in the Jail Court and the Juvenile Court, additional legal fees and costs would be incurred in resolving the dispute with the county and, as noted above, could result in rescission of the First Amendment, which would impose substantial operational and financial burdens on the superior court and the Judicial Council.

Implementation Requirements, Costs, and Operational Impacts

The proposed transfer of the state's equity interests in the Jail Court and the Juvenile Court entails no additional out-of-pocket costs other than small amount of legal fees to facilitate final execution and delivery of the agreement and other documents needed to implement that transfer and otherwise resolve the dispute with Imperial County.

Attachments and Links

1. Link A: Government Code section 70391,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70391
2. Link B: Government Code section 70342,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70342