

San Diego Daily Transcript

Superior court dismisses labor agreement case; AGC looks to appeal

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By Carlos Rico

In a decision that surprised some, a Superior Court judge ruled against the local Associated General Contractors chapter in a discrimination suit against the San Diego Unified School District.

Judge Judith Hayes dismissed the case that alleged the school district's Project Stabilization Agreement was discriminatory, as it only allows apprenticeship workers from union-only shops to be apart of the Proposition S construction projects.

"The decision was expected," said Stuart Markey, executive director of the Capital Improvement Bond Program for the San Diego Unified School District. "It underscored the legality of Project Stabilization Agreements, in general, as well as the effort that went into creating the (labor agreement)."

The labor agreement -- which went into effect Oct. 27, 2009 -- states any district construction project estimated at \$1 million or above that uses Proposition S funds will fall into this agreement.

The case, which was filed by the AGC, states the apprenticeship stipulation in the Project Stabilization Agreement (PSA) does not "circumvent legislative authority" since it is consistent with the labor code.

The court order said: "The district acted in its proprietary interests in adopting the PSA. The PSA is specific to the Proposition S projects and does not discriminate against nonunion contractors."

"We think the judge got it wrong," said Jim Ryan, executive vice president of the Associated General Contractors San Diego Chapter. "We feel (the PSA) does discriminate against nonunion apprentices."

The Project Stabilization Agreement contract was backed by union contractors and was helped put together by the San Diego Building and Construction Trade Council.

Tom Lemon, business manager of the San Diego Building and Construction Trade Council, said the court's decision allows the district to proceed with building projects that will provide solid employment for local residents.

"We need to create good jobs in our local communities," said Lemmon, in a statement. "We don't want contractors that hire low-paid workers from out-of-town to be able to outbid responsible companies that provide career opportunities for hard-working San Diegans."

Xavier Leonard, spokesperson for the Center on Policy Initiatives, echoed these remarks and added that the school district knows the importance of the labor agreement has on putting unemployed contractors back to work and provisions to place local residents in apprenticeship jobs.

“The PSA is the only way they can ensure the district’s investment in construction projects helps make that happen,” Leonard said.

The AGC is looking to overturn the judge’s decision, as it has filed an appeal.

“A three-judge panel will be looking into the case and we are confident that they will find that the (PSA) does discriminate,” Ryan said.

He said he believes it will take about six months for the entire appeal process to unfold.

Since Proposition S was passed in November 2008, 18 construction contracts have been awarded, totaling \$64 million in renovation to old school buildings and construction of new ones, according to Markey.

“In contrast, the district only awarded \$7 million in construction contracts during the first year of implementing the previous bond program,” Markey added.

Since the Project Stabilization Agreement went into effect, no projects have either been advertised to bid or awarded.