



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

2011 NOV -9 PM 5:10

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Department Name: County Counsel,
Auditor-Controller
Department No.: 013/061
For Agenda Of: November 15, 2011
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dennis A. Marshall, County Counsel, 568-2950
Director(s) Robert W. Geis, Auditor-Controller, 568-2100
Contact Info: Michael Ghizzoni, Chief Assistant County Counsel, 568-2950

MJG, For 11/9/11
Mr Geis

SUBJECT: Withdrawal of Authority to Bring CRT "Price Fixing" Antitrust Litigation

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

Adopt a Resolution in the Matter of Withdrawing Authority of the Attorney General to File an Action on Behalf of the County of Santa Barbara Pursuant to Business & Professions Code § 16750(c) regarding Cathode Ray Tube (CRT) "Price Fixing" Antitrust Litigation.

Summary Text:

On November 7, 2011, the County received notice that the California Attorney General's Office intends to file an action in state court on the County's behalf under California's antitrust and unfair competition laws to recover overcharges paid on Cathode Ray Tubes (CRTs) caused by price-fixing by major CRT manufacturers. The Attorney General is authorized pursuant to Cal. Bus. & Prof. Code § 16750(c) to bring actions on behalf of public entities and seek damages for violations of California law. Within 30 days after notice from the Attorney General, the County may, by formal resolution of the Board, withdraw the authority of the Attorney General to file such an action on its behalf.

Background:

The Attorney General has the authority pursuant to Bus. & Prof. Code § 16750(c) to bring actions on behalf of public entities and seek damages for violations of California law. Counties that do not wish to participate in the action have 30 days to notify the Attorney General that they withdraw the authority of the Attorney General to bring an action on behalf of the county. The action to withdraw that authority must be by Board resolution. If no resolution is passed, then the Attorney General proceeds on the county's behalf.

Auditor-Controller Concurrence

As to form: Yes

The amount of any potential recovery for the County is unknown at this time, but would have a priority behind the Attorney General's expenses for investigation and prosecution of the action. The Auditor-Controller's office has indicated that it would take a substantial amount of staff time to estimate the CRT purchases that could be at issue. The Attorney General would be seeking hard-copy and electronic documents and data, including procurement, accounting, and inventory control and administrative records with respect to the purchase of CRT products between from 1995 to the present. It would take a significant amount of staff time in the General Services, Auditor-Controller, and County Counsel departments to assist the Attorney General and produce relevant documents. Some potentially relevant documentation may be no longer available.

If an offer made by a defendant is not accepted and the State fails to obtain a more favorable judgment or award, the County could potentially be liable for a portion of defendants' costs. It is unlikely that the County would be held responsible for defendants' attorneys' fees in the event of a loss by the State.

Given the unknown nature of damages that the County might eventually receive, the staff costs that would be involved in supporting the action, and the possibility of the County's having to pay a portion of expert fees and costs of the defendant, the Board may choose to adopt the resolution withdrawing the authority of the Attorney General to bring the intended action on behalf of the County.

Fiscal and Facilities Impacts:

Unknown. There would be substantial County staff time involved in determining what procurement, accounting and inventory documents are relevant and producing them. If there were an eventual recovery, the State would get a portion of the recovery as attorneys' fees. There is a possibility that the County could be held responsible for a portion of the costs of the defendants.

Budgeted: No

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative:

Staffing Impacts:

Legal Positions:

FTEs:

N/A

Special Instructions:

Please provide a signed, certified copy of the Resolution to Anne Rierson in the Office of County Counsel.

Attachments:

Resolution In the Matter of Withdrawing Authority of the Attorney General to File an Action on Behalf of the County of Santa Barbara Pursuant to Business & Professions Code § 16750(c) Regarding Cathode Ray Tube (CRT) "Price Fixing" Antitrust Litigation.

Authored by:

Anne Rierson, Deputy County Counsel