

Press Release

Chico Scrap Metal – 20th Street Location

Update from the Courthouse: The Lawsuit Is Not Over Yet

November 4, 2021

The Lawsuit is Not Over Yet. The Court’s ruling shifts the focus of the lawsuit to an issue that the City has been kicking down the road for some time – when, where and how to relocate Chico Scrap Metal.

Chico Scrap Metal and the Scott Family Trust filed a lawsuit in December 2018 and the City cross-complained in June 2019. On October 28, 2021, the Court granted the City’s motion for summary judgment. Kim Scott, a co-owner and manager of the E. 20th Street Chico Scrap Metal yard, states: *“Contrary to the rumors out there, that ruling did not end the lawsuit because there are important legal issues that still have to be decided by the Court.”*

The Court’s recent Order decided the first big issue – that the amortization deadline in the Chapman Mulberry Neighborhood Plan cannot be challenged because the statute of limitations for making that challenge has expired. Ms. Scott states: *“Of course, this is disappointing news for us, and our lawyers are still evaluating the ruling. But I can state with certainty that this case is not over yet.”* The Court’s ruling shifts the focus of the lawsuit to an issue that the City has been kicking down the road for some time – **when, where and how to relocate Chico Scrap Metal.**

The City is legally obligated under the Chapman Mulberry Neighborhood Plan (which is part of the City’s General Plan) to **“take the necessary steps to relocate the Chico Scrap Metal yard to a more appropriate location.”** The amortization language and the relocation language both appear in the Plan, at page 11):

Amortization of Chico Scrap Metal Yard

The Chico Scrap Metal Yard is located within the Chapman/Mulberry Neighborhood Plan area and is proposed to be the site of a future mixed-use neighborhood core. Upon City adoption of the Chapman/Mulberry Neighborhood Plan, the Chico Scrap Metal Yard will become a non-conforming use. Once the Chico Scrap Metal Yard becomes a non-conforming use, the City shall adopt an ordinance providing for its amortization.

Time Frame: Ongoing

Neighborhood Rehabilitation

Neighborhood Clean-Up

The City and County shall assist community based organizations in their efforts to organize a neighborhood clean-up program.

Time Frame: Ongoing

Relocation of the Chico Scrap Metal Yard

The City and County shall cooperatively take the necessary steps to relocate the Chico Scrap Metal Yard to a more appropriate location.

Time Frame: Ongoing

In plain terms, the City was supposed to set the clock and when the clock ran out, the City would have to step up and relocate Chico Scrap Metal.

The Court's recent ruling, without a doubt, has trimmed back some of the issues in dispute and narrowed the scope of issues to be decided at trial. However, the City's obligation to relocate Chico Scrap Metal is not decided and remains a big part of this lawsuit. In fact, both parties have asked the Court to tell them what their rights and obligations are with respect to this relocation provision in the Chapman Mulberry Neighborhood Plan. (See, e.g. Chico Scrap Metal's complaint at page 13 in the Prayer for Relief at para. 3 and the City's cross-complaint at page 8, para. 32.) The relocation issue will have to be resolved before this lawsuit is over.

The parties are set for a settlement conference on November 17, 2021 and a further case management conference on December 8, 2021. These issues will be discussed with the Court at both court appearances.

The Court's most recent ruling presents both sides with a "pens down, times up" moment. The City set the amortization deadline, extended it, and now it is expired. The time has arrived for the City to act on its obligation to relocate Chico Scrap Metal to a new, more appropriate location. Ms. Scott states: "*Chico Scrap Metal continues to look forward to a productive conversation with the City, facilitated by the Court, to formulate a solution that delivers a win-win for both sides.*" If the parties cannot reach agreement, the Court will have to decide the remaining issues, which may not deliver a solution that anyone likes or wants.

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