

Filed 8/28/03

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

SAN JOSE PARKING, INC.,

Petitioner,

v.

THE SUPERIOR COURT OF SANTA
CLARA COUNTY,

Respondent;

CITY OF SAN JOSE REDEVELOPMENT
AGENCY,

Real Party in Interest.

H024871
(Santa Clara County
Super. Ct. No. CV806700)

ORDER MODIFYING OPINION AND
DENYING REHEARING

CHANGE IN JUDGMENT

THE COURT:

It is ordered that the opinion filed herein on July 29, 2003, be modified as follows:

1. On page 2, the first sentence of the first full paragraph, beginning “Under the first” is modified to read as follows:

Under the first part of the Agreement, SJP was granted an exclusive right to negotiate a disposition and development agreement for Fountain Alley for a 10-year period, *unless terminated earlier as provided under the agreement.*

2. The paragraph commencing on page 11 with “Even if we were” and ending at the top of page 12 with “the Agreement” is deleted.

3. On page 12, the first sentence of the first full paragraph, beginning “The Agreement’s” is modified to read as follows:

The express language of the Agreement also undermines Agency's argument.

4. The paragraph commencing on page 13 with "Besides the fact" and ending at the top of page 14 with "Redevelopment Law" is deleted.

5. On page 14, under "Disposition" the last sentence beginning "The parties" is deleted and replace with the following sentence:

San Jose Parking, Inc. is entitled to its costs on appeal.

This modification changes the judgment as to costs only.

Real Party in Interest's petition for rehearing is denied.

Dated:

RUSHING, P.J.

WE CONCUR:

BAMATTRE-MANOUKIAN, J.

MIHARA, J.