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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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REVERGE ANSELMO and SEVEN
HILLS LAND AND CATTLE COMPANY,
LLC,

NO. CIV. 2:12-1422 WBS EFB

Plaintiffs,

ORDER RE: MOTIONS FOR PARTIAL
SUMMARY JUDGMENT

v.

RUSS MULL, LESLIE MORGAN, a
Shasta County Assessor-
Recorder, COUNTY OF SHASTA,
BOARD OF SUPERVISORS OF THE
COUNTY OF SHASTA, LES BAUGH
and GLEN HAWES,

Defendants.

_____/

COUNTY OF SHASTA, AND COUNTY
OF SHASTA, for the People of
the State of California,

Cross-Complainant,

v.

REVERGE ANSELMO; SEVEN HILLS
LAND AND CATTLE COMPANY LLC;
NANCY HALEY; MATTHEW RABE;
MATTHEW KELLEY; ANDREW JENSEN;
and DOES 1 THRU 50,

Cross-Defendants.

1 _____/
2 REVERGE ANSELMO; SEVEN HILLS
3 LAND AND CATTLE COMPANY LLC;

4 Counter-Claimants,

5 v.

6 COUNTY OF SHASTA, and COUNTY
7 OF SHASTA, for the People of
8 the State of California,

9 Counter-Defendants.
10 _____/

11 COUNTY OF SHASTA, and COUNTY
12 OF SHASTA, for the People of
13 the State of California,

14 Counter-Claimants,

15 v.

16 REVERGE ANSELMO; SEVEN HILLS
17 LAND AND CATTLE COMPANY LLC;

18 Counter-Defendants.
19 _____/

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21 Plaintiffs Reverage Anselmo and Seven Hills Land and
22 Cattle Company ("Seven Hills") have brought this suit against
23 defendants Ross Mull, Leslie Morgan, Les Baugh, Glen Hawes,
24 County of Shasta ("Shasta County"), and the Board of Supervisors
25 of the County of Shasta ("Board") related to defendants' actions
26 surrounding the issuance of a Williamson Act contract and
27 enforcement of a grading ordinance. Plaintiffs allege violations
28 of 42 U.S.C. § 1983 and seek injunctive relief through a writ of
mandate. (Notice of Removal Ex. B ("TAC") (Docket No. 1-2).)
Presently before the court are plaintiffs' motions for partial

1 summary judgment. (Docket Nos. 120, 121.)¹

2 The legal bases for plaintiffs' motions are unclear.
3 In one motion, plaintiffs request that the court find that the
4 defendant owed Seven Hills a "duty to approve a Williamson Act
5 contract" and breached that duty or, alternatively, that Board's
6 vote on December 16, 2008 "constituted approval of execution of
7 such a Contract as of that date." (Pls.' Mot. for Partial Summ.
8 J. Re: Williamson Act ("Williamson Act MSJ") at 6:12-22 (Docket
9 No. 121-2).)² Seven Hills contends that, should the court find
10 that defendants owed it a duty to grant a Williamson Act
11 contract, "the question of whether the failure to comply with
12 this duty by the County and its officers amounts to a violation
13 of 42 U.S.C. [§] 1983 will still remain for the jury and Court to
14 resolve." (Id. at 6:15-17.)

15 In the other motion, plaintiffs "seek[] to eliminate a
16

17 ¹ In its March 18, 2013 Order, the court declined to
18 exercise supplemental jurisdiction over a variety of state law
19 cross-claims and counter-claims. (Docket No. 117.) The claims
20 for violation of § 1983 and injunctive relief in the Third
21 Amended Complaint ("TAC") are the only remaining claims in this
22 case.

23 ² "The Williamson Act is a legislative effort to preserve
24 agricultural and open space land and discourage premature urban
25 development." County of Humboldt v. McKee, 165 Cal. App. 4th
26 1476, 1487 (1st Dist. 2008) (citing Cal. Gov't Code § 51220).
27 "It authorizes local governments to establish 'agricultural
28 preserve[s],' which consist of lands devoted to agricultural and
compatible uses." Id. (alteration in original) (citing Cal.
Gov't Code § 51230). "Upon establishment of such preserves, the
locality may offer to owners of included agricultural land the
opportunity to enter into annually renewable contracts that
restrict the land to open space use for at least [ten] years."
Sierra Club v. City of Hayward, 28 Cal. 3d 840, 851 (1981)
(citing Cal. Gov't Code §§ 51240, 51242, 51244). "In return, the
landowner is guaranteed a relatively stable tax base, founded on
the value of the land for open space use only and unaffected by
its development potential." Id.

1 defense likely to be asserted by the County and individual
2 defendants that their actions or inactions were not violative of
3 the constitutional rights of plaintiffs." (Pls.' Reply in Supp.
4 of Mot. for Partial Summ. J. Re: Grading Ordinance ("Ordinance
5 MSJ") at 2:5-7 (Docket No. 128).) Specifically, plaintiffs
6 request partial summary judgment barring defendants from
7 asserting, as a defense to a § 1983 claim, that plaintiffs
8 violated a grading ordinance when conducting work on plaintiffs'
9 property. (Ordinance MSJ at 1:25-2:4 (Docket No. 120-1).)

10 With regard to the Williamson Act MSJ, plaintiffs'
11 briefs sometimes imply that Seven Hills' Fourteenth Amendment due
12 process rights were infringed when it was deprived of a
13 constitutionally protected property interest. (Williamson Act
14 MSJ at 7:18-21, 10:1-4.) At other points plaintiffs appear to
15 contend that the motion is based on deprivation of a Fourteenth
16 Amendment right to equal protection. (See id. at 10:6-8, 14:19-
17 28; Pls.' Reply in Supp. of Williamson Act MSJ at 6:5-6, 12:5-7).
18 Likewise with regard to the Ordinance MSJ, the court cannot
19 determine what constitutional right plaintiffs allege was
20 infringed by defendants' actions regarding the grading ordinance.
21 Without a clear statement of the constitutional right at issue,
22 the court cannot even begin to analyze whether defendants'
23 hypothetical defense to plaintiffs' § 1983 claim fails as a
24 matter of law.

25 The Third Amended Complaint's ("TAC") § 1983 claim
26 alleges both due process an equal protection violations, (Third
27 Am. Compl. ("TAC") ¶¶ 60.0(1) & (4)). Yet, plaintiffs' briefs do
28 not cite a single §1983 case by a federal court to guide this

1 court's analysis.³ Plaintiffs fail to explain whether they are
2 asserting an independent claim for a writ of mandate under
3 sections 1085 and the William Act statute--if such a claim is
4 even cognizable in federal courts, see Hill v. County of
5 Sacramento, 466 F. App'x 577, 579 (9th Cir. 2012) ("[Section]
6 1085 authorizes only state courts to issue writs of mandate.")--
7 or whether they are simply seeking prospective injunctive relief
8 under § 1983. The TAC fails to clarify the issue, as plaintiffs'
9 second claim is entitled "Writ of Mandate and Injunction to
10 Prohibit Future Violations of 42 U.S.C. 1983 and to Enforce Other
11 Statutory Requirements." (Docket No. 1-2.)

12 "Section 1983 'is not itself a source of substantive
13 rights,' but merely provides 'a method for vindicating federal
14 rights elsewhere conferred.'" Albright v. Oliver, 510 U.S. 266,
15 271 (1994) (plurality opinion) (quoting Baker v. McCollan, 443
16 U.S. 137, 144 n.3 (1979)). "The first step in any such claim is
17 to identify the specific constitutional right allegedly
18 infringed." Id. (citations omitted). Evaluating plaintiffs'
19 motions under the standard set forth in Anderson v. Liberty
20 Lobby, Inc., 477 U.S. 242 (1986), and Celotex Corp. v. Catrett,


22 ³ The majority of the cases cited by plaintiff are state
23 law cases involving writs of mandate issued under California Code
24 of Civil Procedure section 1085. See, e.g., Schram Const. Inc.
25 v. Regents of the Univ. of Cal., 187 Cal. App. 4th 1040, 1051
26 (1st Dist. 2010); SN Sands Corp. v. City and County of San
27 Francisco, 167 Cal. App. 4th 185, 191 (1st Dist. 2008). Section
28 1085 provides that "[a] writ of mandate may be issued by any
court to any inferior tribunal, corporation, board, or person, to
compel the performance of an act which the law specifically
enjoins . . . or to compel the admission of a party to the use
and enjoyment of a right or office to which the party is
entitled." Cal. Code Civ. Procedure § 1085.

1 477 U.S. 317 (1986), because plaintiffs have failed to identify a
2 specific constitutional right forming the bases of the § 1983
3 claims upon which they seek partial summary judgment, their
4 motions for partial summary judgment must accordingly be denied.⁴

5 Without a clear explanation of the constitutional
6 rights at the base of plaintiffs' motions, the court would simply
7 be speculating as to the specific issues to be resolved, which
8 would likely lead to later argument that the court misunderstood
9 plaintiffs' motions. Furthermore, the dispositive motion
10 deadline is still six weeks away. (Docket No. 117.) Even if the
11 court granted plaintiffs the relief they seek, plaintiffs might
12 then file another motion seeking summary judgment on the
13 remaining issues in their § 1983 claims. Thus, addressing
14 plaintiffs' specific arguments regarding the Williamson Act
15 statutory scheme and the statute of limitations for a grading
16 ordinance violation at this time would not "be conducive to the
17 conservation of judicial resources and of benefit to the
18 parties." Bruschini, 911 F. Supp. at 106.

19 IT IS THEREFORE ORDERED that plaintiffs' motions for
20 partial summary judgment be, and the same hereby are, DENIED.

21 DATED: July 30, 2013

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24 WILLIAM B. SHUBB
25 UNITED STATES DISTRICT JUDGE
26

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28 ⁴ Because plaintiffs' motions fail to identify the
specific constitutional right at issue, the court makes no
finding regarding the merits of plaintiffs' § 1983 claims.