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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA  
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7 PACIFIC SHORES PROPERTY  
8 OWNERS ASSOCIATION, et al.,

9 Plaintiffs,

No. C 13-2827 PJH

10 v.

**ORDER GRANTING MOTION  
TO DISMISS**11 FEDERAL AVIATION  
12 ADMINISTRATION, et al.,Defendants.  
13 \_\_\_\_\_/

14 The motion of defendant Federal Aviation Administration ("FAA") for an order  
15 dismissing the claim asserted against it came on for hearing before this court on November  
16 20, 2013. Plaintiffs appeared by their counsel Kelly Smith, and the FAA appeared by its  
17 counsel Michael Pyle. Having read the parties' papers and carefully considered their  
18 arguments and the relevant legal authority, the court hereby GRANTS the motion as  
19 follows for the reasons stated at the hearing.

20 The dismissal is with leave to amend. Plaintiffs' counsel confirmed at the hearing  
21 that the sole cause of action asserted against the FAA is a claim under 42 U.S.C. § 4655,  
22 which is part of the Uniform Relocation Assistance and Real Property Act, 42 U.S.C.  
23 § 4600, et seq.

24 Section 4655 provides that "notwithstanding any other law," the federal agency  
25 head shall not grant any approvals or funding unless

26 receiving satisfactory assurances from such acquiring agency that: (1) in  
27 acquiring real property it will be guided, to the greatest extent practicable  
28 under State law, by the land acquisition policies in section 4651 of this title  
and the provisions of section 4652 of this title, and (2) property owners will be  
paid or reimbursed for necessary expenses as specified in section 4653 and  
4654 of this title.

1 42 U.S.C. § 4655. In the amended complaint, plaintiffs must allege facts sufficient to  
2 support the elements of § 4655, such that they can state a plausible claim under the  
3 statute.

4 At the hearing, counsel for the FAA stated that he had "sent counsel assurances last  
5 week," and that plaintiffs could thus not state a claim under § 4655. Counsel for plaintiffs  
6 responded that he had not received any assurances from counsel for the FAA. The court  
7 reminds counsel for plaintiffs that in amending the complaint, he must be cognizant of his  
8 responsibilities under Federal Rule of Civil Procedure 11(b), in particular as to whether "the  
9 factual contentions have evidentiary support . . . ."

10 The amended complaint shall be filed no later than December 18, 2013, and  
11 defendants' response shall be filed no later than 21 days thereafter. The amended  
12 complaint shall add no new parties or causes of action unless plaintiffs first obtain leave of  
13 court or the agreement of the defendants.

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15 **IT IS SO ORDERED.**

16 Dated: November 21, 2013



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PHYLLIS J. HAMILTON  
United States District Judge

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