



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 22, 2014

Title	Agenda Item Type
Court Facilities: Disposition of Vacant State-Owned Court Facilities	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	August 22, 2014
Recommended by	Date of Report
Trial Court Facility Modification Advisory Committee	July 30, 2014
Hon. David Edwin Power, Chair	Contact
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Executive Summary

In connection with the Judicial Council's authority and responsibility to dispose of surplus court facilities under Government Code section 70391(c) and rule 10.183 of the California Rules of Court, the Trial Court Facility Modification Advisory Committee (TCFMAC) recommends that the council declare the following three state-owned court facilities in Fresno County to be surplus property: (1) Clovis, (2) Reedley, and (3) Firebaugh.

The TCFMAC further recommends that the council direct staff to report to the Legislature that the three court facilities are surplus and take all actions necessary to obtain the Legislature's authorization to dispose of the surplus facilities in accordance with Government Code sections 70391(c) and 11011. These three facilities have been vacated by the Superior Court of Fresno County, which has notified the Judicial Council that it does not have any future plans to re-open the facilities and supports efforts to dispose of them. Once the facilities are disposed of, the judicial branch will realize financial savings on maintenance costs.

Recommendation

The Trial Court Facility Modification Advisory Committee recommends that the council, effective August 22, 2014:

1. Declare the following state-owned court facilities in Fresno County to be surplus property:
 - Clovis;
 - Reedley; and
 - Firebaugh.
2. Direct staff to report to the Legislature that these three facilities are surplus court facilities and take all actions necessary to obtain the Legislature's authorization to dispose of the facilities in accordance with Government Code sections 70391(c) and 11011.

Previous Council Action

There has been no prior council action to declare state-owned court facilities as surplus; however, the council previously delegated review of expenditures for ongoing trial court facility operations and maintenance to the TCFMAC.

Rationale for Recommendation

The declaration of vacant state-owned court facilities as surplus, followed by disposition of those facilities, will save the judicial branch the ongoing costs of property maintenance (utilities, landscaping, vandalism prevention/cleanup, etc.). At its April 11, 2014, meeting the TCFMAC reviewed the list of state-owned, vacated court facilities and determined that these three facilities were not being utilized, and would not in the foreseeable future be utilized, for court operations. TCFMAC voted to recommend that the council declare the listed facilities surplus as the initial step toward disposition.

Government Code section 70391(c)¹ vests in the Judicial Council the authority to dispose of transferred court facilities and requires it to comply with section 11011 when disposing of surplus court facilities. Section 70391 states, in pertinent part:

The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:

[¶] . . . [¶]

¹ All future code references in this report are to the Government Code, unless otherwise noted.

- (c) Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:
 - 1. If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011

In California Rules of Court, rule 10.183(c)(2) the Judicial Council reiterated that the decision whether to dispose of surplus court facilities remains the responsibility of the Judicial Council and has not been delegated to staff.

Because the three court facilities in question were all previously the responsibility of Fresno County before being transferred to state ownership, the council will need to comply with the requirements of section 11011.

No authority specifically defines the term “surplus,” as used in section 70391; therefore, section 11011, which applies to the disposal of other state-owned properties, is instructive. Under that section, real property is subject to disposal as surplus if it is excess to the foreseeable needs of the owning agency. Statutory examples of such properties include:

- (1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.
- (2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.
- (3) Land not identified by the state agency within its master plans for facility development.

(Gov. Code, § 11011(a)(1)–(3).) Thus, the Judicial Council must report to the Legislature as surplus any court facilities that are not being utilized, are underutilized, or are not identified within the judicial branch’s master plans for facility development, so that the Legislature can authorize the council to dispose of the facilities.

Here, the superior court has reported that the three facilities in question are not being utilized and that the court has no foreseeable plans to use these facilities for court operations. Furthermore, the facilities are not identified within the judicial branch’s facility master plans. Accordingly, the identified facilities must be reported to the Legislature as surplus facilities so that the Legislature can authorize the council to dispose of them.

Comments, Alternatives Considered, and Policy Implications

Comments

This proposal was not circulated for comment. The listed facilities are limited to the Superior Court of Fresno County. Staff has received written communication from the court stating that the

facilities are no longer being used for court operations, the court does not intend to resume court operations at those locations, and the court supports the disposition of the facilities.

Alternatives

Under sections 70391(c) and 11011, if the Judicial Council determines that a facility is no longer being used, and there is no current or foreseeable use of the facility for court operations, the Judicial Council is required to report that as a surplus facility to the Legislature so that it can obtain legislative approval to dispose of the facility. Once the respective trial court informed the TCFMAC that they were not using, and did not have a foreseeable use for the three listed facilities, there were no legally authorized alternatives to consider, and the TCFMAC concluded it must recommend reporting the three facilities as surplus to the Legislature.

Implementation Requirements, Costs, and Operational Impacts

In moving forward with the disposition of surplus court facilities, in accordance with sections 11011(c) and 70391(c), staff will report to the Legislature that the council has declared these three court facilities as surplus and request authorization from the Legislature to dispose of them as authorized by law. Because the listed court facilities were transferred to state ownership from Fresno County, staff will, in compliance with section 70391(c)(2), consult with that county concerning the disposition, and if requested, the surplus facilities shall be offered to Fresno county at fair market value prior to being offered to any other state or local government agency. If the county is not interested in reacquiring any of these facilities, the facilities will then be offered to other state and local government agencies before other methods of disposition are explored.

Costs will be incurred in the disposition process, including items such as appraisals, surveys, environmental reports, and title and escrow fees, and for nongovernmental transactions should any ensue, prospective real estate broker commissions. Costs incurred will, however, be offset by the sale proceeds. Per the provisions of article III, section 9 of the California Constitution, the remaining sale proceeds will be deposited in the Special Fund for Economic Uncertainties for the benefit of the state, and after disposal of the facilities the judicial branch will realize ongoing maintenance cost savings.

Attachments and Links

1. Cal. Rules of Court, rule 10.183:
http://www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_183
2. Gov. Code, § 70391:
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70391
3. Gov. Code, § 11011:
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=11011