Filed 1/23/18 Yegikyan v. City of Los Angeles CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

AYVAZ YEGIKYAN et al., Plaintiffs and Appellants, v. CITY OF LOS ANGELES et al., Defendants and Respondents.	B277207 (Los Angeles County Super. Ct. No. BC602374)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gregory Keosian, Judge. Affirmed.

Law Offices of Frank W. Chen and Frank W. Chen for Plaintiffs and Appellants.

Michael N. Feuer, City Attorney, Blithe S. Bock, Assistant City Attorney, and Wendy Shapero, Deputy City Attorney, for Defendants and Respondents.

INTRODUCTION

Ayvaz and Narek Yegikyan sued the City of Los Angeles after the City placed the Yegikyans' multi-unit residential property into the City's rent escrow account program (REAP). The Yegikyans appeal from the judgment entered after the trial court sustained the City's demurrer to the first amended complaint without leave to amend. We conclude that the Yegikyans' failure to comply with the claim presentation requirement of the Government Claims Act (Gov. Code, § 810 et seq.) bars their state law causes of action, that the statute of limitations bars their remaining cause of action under 42 United States Code section 1983, and that the Yegikyans have not demonstrated they can amend to cure these deficiencies. Therefore, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND[1]

A. *The City Places the Yegikyans' Property into REAP*

In June 2010 the Yegikyans bought a three-unit residential property occupied by renters. Although the Yegikyans intended to occupy the property, they agreed to let the current occupants continue renting the units from them for several months. By March 2011 the occupants of two units had vacated and

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[1] The facts in this background section are from the allegations in the first amended complaint and its exhibits. We accept those facts as true because this is an appeal from a judgment of dismissal after an order sustaining a demurrer without leave to amend. (See *Glen Oaks Estates Homeowners Assn. v. Re/Max Premier Properties, Inc.* (2012) 203 Cal.App.4th 913, 919.)

surrendered possession of the premises to the Yegikyans. The Yegikyans "left" the property in March with the intention of returning at the end of May 2011, when they expected the third unit to be vacant. When the Yegikyans "returned" at the end of May, however, they found the previously vacated units occupied by unfamiliar people who claimed they were paying rent to a different owner.

After researching the situation, the Yegikyans learned in June 2011 that the Los Angeles Housing Department[2] had placed their property into REAP.[3] Over the next several weeks the Yegikyans spoke with REAP representatives and Housing Department inspectors in an attempt to learn how, when, and why the City had placed their property into REAP.

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[2] Although the Los Angeles Housing Department is now the Housing and Community Investment Department, we will refer to it as "the Housing Department," "the Department," or, because it is a department of the City of Los Angeles, the "City."

[3] "REAP is an administrative program codified in the Los Angeles Municipal Code . . . . The Los Angeles Housing Department . . . places property into REAP when a landlord fails to repair habitability violations. [Citation.] When a property is placed into REAP, tenants pay a reduced rent. [Citation.] The Housing Department determines the amount of the reduced rent based on the severity of the habitability violations. [Citation.] Tenants may choose to pay their reduced rent to either their landlord or an escrow account maintained by the Housing Department. [Citation.] If tenants pay into the escrow account, the tenant, landlord, or Housing Department may apply to the escrow account's manager for funds to repair the habitability violations in the tenant's housing." (*Sylvia Landfield Trust v. City of Los Angeles* (9th Cir. 2013) 729 F.3d 1189, 1190-1191.)

On July 5, 2011 a Housing Department inspector explained to them that the City placed their property into REAP, which permitted the City to collect reduced rent from the occupants, because the Yegikyans had not complied with notices and orders regarding the property's habitability violations and warnings the City could place the property into REAP.[4] The Yegikyans told him they had not received any such notices or orders. Ten days later they spoke with another Housing Department inspector who again explained the City had placed their property into REAP because they had not complied with the relevant notices and orders. When the Yegikyans told him they had not received the notices or orders because the Department apparently had sent them only to the previous owner, the inspector told them these contentions were not the concern of the Department or the City. The Yegikyans decided they had no choice but to fix the conditions cited by the Department.

From August 2011 to December 2013 the Yegikyans attempted to repair and clean the property to address those conditions. In the meantime, they obtained access to Department records confirming the Department had indeed sent the relevant notices and orders only to the property's previous owner. In December 2013 they obtained additional documents demonstrating that "many of the facts in favor of [the Yegikyans] were grossly concealed" from them by the City, the Department, and REAP and that "much of the evidence available to" the Housing Department when it placed the property into REAP was "inaccurate, false and fabricated."

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[4] The Department accepted the property into REAP on April 14, 2011.

On April 15, 2014 the Yegikyans filed an appeal with the Housing Department to overturn the decision to place their property into REAP, which the Department "quickly rejected." Shortly thereafter, the Yegikyans filed a forcible detainer and unlawful detainer action against the occupants and, in April 2015, succeeded in evicting them. On April 16, 2015 Narek Yegikyan presented a written claim for damages to the Los Angeles City Clerk, seeking nearly $500,000 for the wrongful placement of their property into REAP. The City denied the claim on the grounds it was untimely and the Housing Department had done nothing unlawful.

B. *The Yegikyans Sue the City*

On November 25, 2015 the Yegikyans filed this action against the City,[5] seeking damages and recovery of other sums related to the wrongful placement of their property into REAP. The operative first amended complaint asserted causes of action for quiet title, breach of mandatory duty, violation of due process under the California Constitution, violation of 42 United States Code section 1983, wrongful taking of property, conversion, negligence, accounting, declaratory relief, and injunctive relief. The City demurred on the grounds, among others, that the Yegikyans failed to exhaust their administrative remedies, had not complied with the Government Claims Act, and did not file the action within the applicable limitations period. The trial court sustained the demurrer to all causes of action without leave to amend because it found the Yegikyans had not exhausted

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[5] The Yegikyans also erroneously sued the City as the Housing Department, REAP, and the Los Angeles Department of Water & Power.

administrative remedies and had not stated they could amend to allege they had exhausted them. The Yegikyans timely appealed.

DISCUSSION

A. *Standards of Review*

"'The standards for reviewing a judgment of dismissal following the sustaining of a demurrer without leave to amend are well settled. '"'We treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] We also consider matters which may be judicially noticed." [Citation.] Further, we give the [complaint] a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.] When a demurrer is sustained, we determine whether the [complaint] states facts sufficient to constitute a cause of action. [Citation.] And when it is sustained without leave to amend, we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse; if not, there has been no abuse of discretion and we affirm. [Citations.] The burden of proving such reasonable possibility is squarely on the plaintiff."'" (*M.F. v. Pacific Pearl Hotel Management LLC* (2017) 16 Cal.App.5th 693, 699; accord, *Finch Aerospace Corp. v. City of San Diego* (2017) 8 Cal.App.5th 1248, 1251-1252; see *Aviles-Rodriguez v. Los Angeles Community College District* (2017) 14 Cal.App.5th 981, 987 ["[w]e review a judgment of dismissal entered after an order sustaining a demurrer de novo"]; *Lewis v. YouTube, LLC* (2015) 244 Cal.App.4th 118, 121 ["'[w]e will affirm if there is any ground on which the demurrer can properly be sustained"'].)

B. *The Yegikyans' Failure To Comply with the Government Claims Act Bars Their State Law Causes of Action*

The Government Claims Act requires that, subject to certain exceptions, "'[b]efore suing a public entity, the plaintiff must present a timely written claim for damages to the entity.' [Citation.] Compliance with the claim requirement is a condition precedent to suing the public entity." (*Rubenstein v. Doe No. 1* (2017) 3 Cal.5th 903, 906; see Gov. Code, § 945.4; *State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1239 ["failure to timely present a claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity"]; *California Restaurant Management Systems v. City of San Diego* (2011) 195 Cal.App.4th 1581, 1591 ["'the claims presentation requirement applies to all forms of monetary demands, regardless of the theory of the action'"].) "'Complaints that do not allege facts demonstrating either that a claim was timely presented or that compliance with the claims statute is excused are subject to a general demurrer for not stating facts sufficient to constitute a cause of action.'" (*Rubenstein v. Doe No. 1*, at p. 906; see *Gong v. City of Rosemead* (2014) 226 Cal.App.4th 363, 374 [affirming trial court order sustaining demurrer without leave to amend for failure to comply with Government Claims Act].)

A claim relating to a cause of action for injury to real property must be presented to the public agency "not later than one year after the accrual of the cause of action." (Gov. Code, § 911.2, subd. (a); see *ibid.* ["[a] claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented . . . not later than six months

after the accrual of the cause of action," and "a claim relating to any other cause of action shall be presented . . . not later than one year after the accrual of the cause of action"]; *Wheeler v. County of San Bernardino* (1978) 76 Cal.App.3d 841, 846 [claim for injury to real property is subject to one-year claim presentation period]; see also *Smith v. County of Los Angeles* (1989) 214 Cal.App.3d 266, 281, fn. 5 [although plaintiffs alleged emotional distress damages, the longer claim presentation period applied because those damages arose from causes of action for nuisance and dangerous condition of public property].) "A plaintiff may apply for leave to present a late claim [citation], but only if the application is presented 'within a reasonable time not to exceed one year after the accrual of the cause of action.'" (*Rubenstein v. Doe No. 1*, *supra*, 3 Cal.5th at p. 906, quoting Gov. Code, § 911.4.)

"The accrual date for presenting a government tort claim is determined by the rules applicable to determining when any ordinary cause of action accrues. [Citation.] That date may be postponed under the delayed discovery doctrine. [Citation.] Under this doctrine, a cause of action does not accrue until the plaintiff discovers, or has reason to discover, the cause of action. [Citation.] A plaintiff has reason to discover a cause of action when he or she has reason to at least suspect a factual basis for its elements. Suspicion of one or more of the elements, coupled with knowledge of any remaining elements, will generally trigger the applicable limitations period. [Citation.] This refers to the 'generic' elements of wrongdoing, causation, and harm and does not require a hypertechnical approach. Instead, 'we look to whether the plaintiffs have reason to at least suspect that a type of wrongdoing has injured them.'" (*S.M. v. Los Angeles Unified School Dist.* (2010) 184 Cal.App.4th 712, 717; accord, *J.J. v.*

County of San Diego (2014) 223 Cal.App.4th 1214, 1222; see Gov. Code, § 901.)

The Yegikyans did not present a timely claim for damages to the City before filing this action.[6] Their allegations establish that their claims relating to the allegedly wrongful placement of their property into REAP accrued no later than July 2011. That month two Housing Department inspectors told them the City had placed their property into REAP because the Yegikyans did not comply with notices and orders that the Yegikyans claimed they never received. By the time they had those conversations, if not earlier, the Yegikyans had reason to suspect the Department had wrongfully placed their property into REAP. July 2011 is considerably more than one year prior to April 16, 2015, the date Narek filed a claim for damages with the City Clerk, and the Yegikyans did not allege they filed a timely application for leave to present a late claim.

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[6] In fact, Ayvaz Yegikyan never presented a claim for damages to the City and cannot rely on the claim presented by Narek. "Ordinarily, a claimant must file his or her own claim. Courts have held that when one injured party timely files a claim with a government entity and another party also injured by the same transaction seeks to pursue a suit against the government entity without filing a separate claim, the second injured party may not rely on the claim filed by the original claimant if the injury suffered by the second injured party was distinct from the injury suffered by the claimant." (*California Restaurant Management Systems v. City of San Diego*, *supra*, 195 Cal.App.4th at p. 1592.)

The Yegikyans argue the claim presentation requirement of the Government Claims Act did not apply because some of their causes of action seek nonmonetary relief. Although there may be an exception to the claim presentation requirement where a damages claim is "incidental" to a claim for nonmonetary relief (see *Bates v. Franchise Tax Bd.* (2004) 124 Cal.App.4th 367, 385),[7] the presentation requirement "'remains applicable to actions in which money damages are not incidental or ancillary to any specific relief that is also sought, but the *primary purpose* of the action" (*Lozada v. City and County of San Francisco* (2006) 145 Cal.App.4th 1139, 1167; see *Gatto v. County of Sonoma* (2002) 98 Cal.App.4th 744, 762). Money damages are not incidental to this action, but its primary purpose: The Yegikyans seek damages in connection with seven of their causes of action, and the remaining three causes of action (for an accounting, declaratory relief, and injunctive relief) seek to identify and recover rent and other money allegedly paid wrongfully into REAP in connection with their property. (See *Loehr v. Ventura County Community College Dist.* (1983) 147 Cal.App.3d 1071, 1081-1082 [primary purpose of action was monetary even though two causes of action were styled as claims for nonmonetary relief].) Therefore, the claim presentation requirement applied to this action.

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[7] "[T]here appears to be a split of authority over whether money damages that may be 'incidental' to a claim for equitable relief are subject to the claim filing requirement of the Government Claims Act." (*Lozada v. City and County of San Francisco* (2006) 145 Cal.App.4th 1139, 1163; see *id.* at pp. 1163-1164 [discussing the cases].)

The Yegikyans also argue their cause of action for wrongful taking of property was not subject to the claim presentation requirement because it is "akin" to an inverse condemnation claim. (See *Lee v. Los Angeles County Metropolitan Transportation Authority* (2003) 107 Cal.App.4th 848, 855 [under Government Code section 905.1 an inverse condemnation action is not subject to the claim presentation requirement].) This argument fails because, to state a cause of action for inverse condemnation, the property damage complained of "must result from ' " ' "an exercise of governmental power while seeking to promote 'the general interest in its relation to any legitimate object of the government.'"""" [Citation.] In other words, in inverse condemnation, the government is obligated to pay for property taken or damaged for "'public use'" or damaged in the construction of 'public improvements.'" (*City of Los Angeles v. Superior Court* (2011) 194 Cal.App.4th 210, 221; see *California State Automobile Assn. v. City of Palo Alto* (2006) 138 Cal.App.4th 474, 479 ["[t]o be compensable, the taking must be for a public use"].) The Yegikyans do not contend their property was taken or damaged for any public use or improvement. (See *City of Los Angeles v. Superior Court*, at p. 221 ["[a] party who does nothing more than establish property damage as the result of negligent conduct of public employees or a public entity has not established a right to recover under a claim of inverse condemnation"].)

Finally, in a single sentence in their opening brief, the Yegikyans contend that "[c]ontinuous accrual principles should have prevented [their] First Amended Complaint from being dismissed at the demurrer stage on statute of limitations grounds." The Yegikyans do not attempt to explain how a

"continuous accrual" theory applies to any of their causes of action or how it would save any (or any part) of their state law causes of action from foundering on the claim presentation requirement of the Government Claims Act. (See *Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1199 [under a continuous accrual theory, "'[w]hen an obligation or liability arises on a recurring basis, a cause of action accrues each time a wrongful act occurs, triggering a new limitations period,'" and "unlike the continuing violation doctrine, which renders an entire course of conduct actionable, the theory of continuous accrual supports recovery only for damages arising from those breaches falling within the limitations period"].) Therefore, they have forfeited any "continuous accrual" argument. (See *City of Palo Alto v. Public Employment Relations Bd.* (2016) 5 Cal.App.5th 1271, 1318 (*City of Palo Alto*) ["[p]oints that are . . . not supported by reasoned argument and citations to authority may be deemed forfeited"]; *Dinslage v. City and County of San Francisco* (2016) 5 Cal.App.5th 368, 377, fn. 3 ["'we do not consider all of the loose and disparate arguments that are not clearly set out in a heading and supported by reasoned legal argument'"].)[8]

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[8] At oral argument, counsel for the Yegikyans argued that, because the Yegikyans alleged they suffered the "continuing harm" of, among other things, the City's continued collection of REAP-related fines, "the statute of limitations should not be a bar" to their state law causes of action. In making this argument, counsel did not refer to the continuous accrual theory or cite any supporting authority. Thus, it is unclear whether counsel was making a new argument or an untimely attempt to argue the "continuous accrual" issue perfunctorily raised in the Yegikyans' opening brief. In either case, the Yegikyans have forfeited the point. (See *City of Palo Alto*, *supra*, 5 Cal.App.5th at p. 1302

The Yegikyans suggest that, if granted leave to amend, they would allege "with even more specificity facts regarding the delayed discovery of the harm caused by [the City's] wrongdoing." The allegations in the first amended complaint, however, preclude the Yegikyans from alleging they presented a timely claim under the Government Claims Act, and deleting, revising, or contradicting those allegations would not alter the result. (See *Larson v. UHS of Rancho Springs, Inc.* (2014) 230 Cal.App.4th 336, 344 ["'[a] plaintiff may not avoid a demurrer by pleading facts or positions in an amended complaint that contradict the facts pleaded in the original complaint or by suppressing facts which prove the pleaded facts false'"]; *Lockton v. O'Rourke* (2010) 184 Cal.App.4th 1051, 1061 ["'admissions in an original complaint that has been superseded by an amended pleading remain within the court's cognizance and the alteration of such statements by amendment designed to conceal fundamental vulnerabilities in a plaintiff's case will not be accepted'"].) The Yegikyans thus fail to demonstrate they can amend to avoid this bar to their state law causes of action.

["[w]hen points are perfunctorily raised without adequate analysis and authority, we may treat them as abandoned or forfeited"]; *Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1185 ["[w]e will not consider an issue not mentioned in the briefs and raised for the first time at oral argument"].) And in either case, the Yegikyans have also failed to show how a "continuing harm" or "continuous accrual" argument would rescue their state law causes of action from noncompliance with the Government Claims Act.

The Yegikyans do correctly contend their cause of action under 42 United States Code section 1983 (section 1983) is not subject to the claim presentation requirement of the Government Claims Act. (See *California Correctional Peace Officers Assn. v. Virga* (2010) 181 Cal.App.4th 30, 39 ["it is well settled that the Claims Act claims-filing provisions are inapplicable to section 1983 claims"].) But that cause of action has another problem.

C. *The Statute of Limitations Bars the Yegikyans' Section 1983 Claim*

"'To state a claim under [section] 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.'"[9] (*Arce v. County of Los Angeles* (2012) 211 Cal.App.4th 1455, 1472; accord, *West v. Atkins* (1988) 487 U.S. 42, 48; see *Golden Gate Water Ski Club v. County of Contra Costa* (2008) 165 Cal.App.4th 249, 268 (*Golden Gate*) [""[t]o state a due process cause of action under section 1983, a party must, as a threshold matter, allege a liberty or property interest within the protection of the Fourteenth Amendment""].)

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[9] "Title 42 United States Code section 1983 provides in relevant part: 'Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .'" (*Arce v. County of Los Angeles* (2012) 211 Cal.App.4th 1455, 1472.)

The parties agree the statute of limitations for the Yegikyans' section 1983 cause of action is two years. (See Code Civ. Proc., § 335.1; *Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 747; *Maldonado v. Harris* (9th Cir. 2004) 370 F.3d 945, 954.) Under federal law, which determines when that cause of action accrued, "'"a claim accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action."'" (*McMahon v. Albany Unified School Dist.* (2002) 104 Cal.App.4th 1275, 1292 (*McMahon*); accord, *Pouncil v. Tilton* (9th Cir. 2012) 704 F.3d 568, 573 (*Pouncil*); see *McMahon*, at p. 1292 ["'"[a]lthough state law determines the length of the limitations period, federal law determines when a civil rights claim accrues"'"]; *Pouncil*, at p. 573 [same].)

The Yegikyans allege in their section 1983 claim the City violated their Constitutional due process rights by placing their property into REAP without their knowledge, "confiscat[ing]" their rent money, and imposing related fees and penalties. This cause of action, like the Yegikyans' state law causes of action, accrued no later than July 2011 because the Yegikyans' discussions with Housing Department inspectors at that time gave them reason to know the City had placed their property into REAP without their knowledge. The City's subsequent collection of the tenants' rent and imposition of fines and fees did not affect that accrual date because those acts were merely the "'continuing impact'" of the initial alleged due process violation. (*Knox v. Davis* (9th Cir. 2001) 260 F.3d 1009, 1013; accord, *Canatella v. Van De Kamp* (9th Cir. 2007) 486 F.3d 1128, 1135-1136.) Thus, the two-year statute of limitations ran long before the Yegikyans filed this action in November 2015.

Citing *DeGrassi v. City of Glendora* (9th Cir. 2000) 207 F.3d 636 (*DeGrassi*) and earlier Ninth Circuit decisions, the Yegikyans argue that the "continuing violation theory" permits them to seek relief under section 1983 for the wrongful placement of their property into REAP, even if that event occurred outside the limitations period, because other alleged wrongs within the limitations period were "related closely enough." Specifically, they point to the City's alleged wrongful refusal to provide them with important documents relating to the placement of their property into REAP until sometime in February 2015.

The Yegikyans are correct that the continuing violation doctrine can apply to section 1983 claims, "allowing a plaintiff to seek relief for events outside of the limitations period." (*Knox v. Davis*, *supra*, 260 F.3d at p. 1013.) The Ninth Circuit decisions on which the Yegikyans rely state that the doctrine applies where a plaintiff can show either "'a series of related acts, one or more of which falls within the limitations period, or the maintenance of a discriminatory system both before and during [that] period.'"[10] (*Gutowsky v. County of Placer* (9th Cir. 1997) 108 F.3d 256, 259;

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[10] Presumably because it first applied the continuing violation doctrine to section 1983 claims in an employment discrimination action, adopting the doctrine from similar suits brought under Title VII of the Civil Rights Act of 1964 (see *Gutowsky v. County of Placer* (9th Cir. 1997) 108 F.3d 256, 259 ["the 'continuing violations' doctrine used in Title VII claims should be applied in Section 1983 cases"]), the Ninth Circuit's statements concerning the doctrine's applicability refer to the unconstitutional acts or policies at issue as "discriminatory," even where those acts or policies also (or instead) allegedly violated Constitutional due process rights. (See, e.g., *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara* (9th Cir. 2003) 344 F.3d 822, 826, 828.)

accord, *DeGrassi*, *supra*, 207 F.3d at p. 645.) In subsequent decisions, however, the Ninth Circuit noted the Supreme Court's decision in *National R.R. Passenger Corp. v. Morgan* (2002) 536 U.S. 101 (*Morgan*) "invalidated the 'related acts' method of establishing a continuing violation." (*Carpinteria Valley Farms, Ltd. v. County of Santa Barbara* (9th Cir. 2003) 344 F.3d 822, 828 (*Carpinteria*); see *RK Ventures, Inc. v. City of Seattle* (9th Cir. 2002) 307 F.3d 1045, 1061 ["*Morgan* overruled previous Ninth Circuit authority holding that, if a discriminatory act took place within the limitations period and that act was 'related and similar to' acts that took place outside the limitations period, all the related acts—including the earlier acts—were actionable as part of a continuing violation"].) The Yegikyans' "related acts" argument, based on former law, is therefore unavailing.

The Yegikyans do not invoke the remaining basis for applying the continuing violation doctrine, i.e., by offering to show "'a systematic policy or practice of discrimination that operated, in part, within the limitations period—a systematic violation.'" (*Berg v. California Horse Racing Bd.* (E.D. Cal. 2006) 419 F.Supp.2d 1219, 1226; see *Carpinteria*, *supra*, 344 F.3d at p. 829, fn. 3 ["[a]lthough the [Supreme] Court invalidated the 'related acts' method, it declined to address the 'systematic pattern-or-practice' method"].) And although the first amended complaint does contain a passing, vague, and conclusory allegation of unconstitutional "policies" and "practices" of the City, the Yegikyans do not cite it, let alone explain what those policies and practices were or how they related to the placement of their property into REAP. (See *Golden Gate*, *supra*, 165 Cal.App.4th at pp. 267-268 ["'[a] plaintiff seeking recovery under section 1983 must plead more than constitutional "buzzwords" to

survive demurrer"'].) Therefore the continuing violation doctrine does not apply.[11]

The Yegikyans suggest they can amend their complaint to allege additional facts showing they "could not have discovered their ***injury***" until February 2015, when the City finally complied with the Yegikyans' request for important documents relating to the placement of their property into REAP. Because the allegations in the first amended complaint make sufficiently clear their section 1983 claim accrued no later than July 2011, however, the Yegikyans have not demonstrated they can amend to cure the deficiency in this cause of action. (See *Ivanoff v. Bank of America, N.A.* (2017) 9 Cal.App.5th 719, 735 [affirming an order sustaining a demurrer without leave to amend where the plaintiff "[did] not identify any additional facts she can allege to refute the conclusion her claims are time-barred"]; *Larson v. UHS of Rancho Springs, Inc.*, *supra*, 230 Cal.App.4th at p. 344; *Lockton v. O'Rourke*, *supra*, 184 Cal.App.4th at p. 1061.)

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[11] Although the City does not raise the issue, the Yegikyans' failure to identify a municipal policy or custom that caused their injury is an additional bar to their section 1983 claim. (See *Harman v. City and County of San Francisco* (2006) 136 Cal.App.4th 1279, 1295-1296 ["[t]o find a municipality liable under section 1983, a plaintiff must identify a municipal policy or custom that caused the constitutional injury," and "'the burden is on the plaintiff to demonstrate the essential policy or custom'"], citing *Monell v. New York City Dept. of Social Services* (1978) 436 U.S. 658, 691; accord, *City and County of San Francisco v. Ballard* (2006) 136 Cal.App.4th 381, 406.)

DISPOSITION

The judgment is affirmed. The City's requests for judicial notice are denied as unnecessary. (See *City of Grass Valley v. Cohen* (2017) 17 Cal.App.5th 567, 594, fn. 13.) The City is to recover its costs on appeal.

SEGAL, J.

We concur:

ZELON, Acting P. J.

BENSINGER, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.