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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

CITY OF SANTA BARBARA,

Plaintiff and Respondent,

v.

DARIO PINI et al.,

Defendants and Appellants.

2d Civil No. B287992  
(Super. Ct. No. 1414623)  
(Santa Barbara County)

Dario and Deanna Pini and their companies, Alamar II, LLC and D.L.P. Properties (collectively Pini), appeal a postjudgment order denying Pini's motion to enforce a stipulated judgment. Pini contends the trial court erred in denying the motion because the terms of the stipulated judgment required the City of Santa Barbara (the City) to resolve all past and future claims against Pini through a special master process. We conclude the City was not barred from filing these consolidated lawsuits.

## **FACTS AND PROCEDURAL HISTORY**

Pini owns several properties in Santa Barbara. In 2012, the City sued Pini alleging that he violated hundreds of city and state codes by maintaining dangerous and substandard living conditions on his properties. The City sought nuisance abatement for 21 of Pini's properties and an injunction restraining him from violating city and state codes.

In 2013, the parties entered a stipulated judgment that resolved the claims raised in the 2012 lawsuit. The parties agreed to an order "restraining [Pini] from maintaining any condition . . . in violation of the [city and state codes] on all of his Properties within the City." The parties agreed to appoint a referee pursuant to Code of Civil Procedure section 638 to serve as the "special master," who "will have the authority to regularly meet with the City and Pini in order to review the proper maintenance and operation of all of the Properties [in Santa Barbara] in accordance with" city and state codes.

The stipulated judgment provided for quarterly meetings. The City would provide the special master and Pini with a "comprehensive written quarterly report" at least 20 days before each meeting. Pini would be given an opportunity to respond 10 days before the meeting. Based on the reports and response, the special master "shall have the authority and discretion to determine whether Pini is complying with the terms of [the stipulated judgment] after each regularly scheduled meeting," and if necessary, make a report to the trial court. In addition, the special master "shall have the authority and discretion" to request and recommend that Pini undertake repairs, construction or maintenance for any of his properties. If the special master determines that Pini violated the terms of the

stipulated judgment, then the special master “may request the City to prepare and duly file a request for an Order to Show Cause Hearing to order [Pini] to appear before the court, to show cause whether the terms and conditions of the [stipulated judgment] have been violated.” Finally, the special master “may recommend to the Court that Pini be held in contempt” or pay civil penalties to the City.

Pini did not comply with the terms of the stipulated judgment. The special master reported multiple violations in each of the 2014-2015 quarterly reports and made several recommendations that the trial court order penalties against Pini. Pini did not abate many of these violations and continued to commit new violations.

In December 2016, city inspectors found more than 3,200 code violations on Pini’s properties. As a result, the City brought two new lawsuits in 2017—an Unfair Competition Law lawsuit and a nuisance abatement and receivership lawsuit. These two lawsuits were later consolidated.

Pini filed a motion to enforce the terms of the stipulated judgment, arguing that the City was required to prosecute its new claims through the special master process. The trial court denied the motion. It found the provisions for the special master process was a “mandatory dispute resolution process for claims that accrued through the filing of the Stipulated Judgment and an optional dispute resolution process for claims that have accrued after the filing of the Stipulated Judgment.”

## **DISCUSSION**

Pini contends the trial court erred in denying the motion to enforce the stipulated judgment because (1) the special

master process in the stipulated judgment was mandatory and applicable to claims arising after the entry of the stipulated judgment (postjudgment claims), and (2) the mandatory application of the special master process to postjudgment claims did not restrict the City's exercise of its "police powers." We conclude the trial court did not err when it found the special master process was not mandatory as applied to postjudgment claims.

### ***Plain Language***

A trial court's interpretation of a stipulated judgment is a question of law that we review de novo. (*DVD Copy Control Assn., Inc. v. Kaleidescape, Inc.* (2009) 176 Cal.App.4th 697, 713.) A stipulated judgment is a contract to which we apply the same legal principles we apply to contracts generally. (*Stewart v. Preston Pipeline Inc.* (2005) 134 Cal.App.4th 1565, 1585.) We first look to the language of a contract to determine its plain meaning. (Civ. Code, § 1638.)

The trial court properly denied the motion to enforce the stipulated judgment because nothing in the stipulated judgment states that the special master process is mandatory for postjudgment claims. The stipulated judgment sets forth a process, by which a special master "will have the authority" to review the proper maintenance of "all" of Pini's properties. This language suggests that the special master process could be used to resolve future claims of code violations on all of Pini's properties, but nowhere does it state that the process is mandatory or that the City's rights are limited to this process. Nor does it limit the City's ability to pursue other remedies. The stipulated judgment only specifies that the parties agreed to appoint a special master to resolve "this litigation," which refers

to the 2012 lawsuit. Had the parties intended to make the special master process the exclusive remedy for all future claims, the parties could have expressly said so in the stipulated judgment. They did not. Absent any “mandatory” language limiting the City’s rights and remedies, we agree with the trial court’s determination that the special master’s process was optional.

Here, the 2017 lawsuits allege new code violations that accrued after the filing of the stipulated judgment. To the extent that these code violations existed at an earlier time, a continuing violation constitutes a new and separate code violation. (*Mangini v. Aerojet-General Corp.* (1991) 230 Cal.App.3d 1125, 1143 [a continuing nuisance constitutes a separate action for damages until the nuisance is abated], superseded by statute on other grounds in *Rufini v. CitiMortgage, Inc.* (2014) 227 Cal.App.4th 299, 311.) Based on the plain language of the stipulated judgment, which authorized but did not require the City to use the special master process for postjudgment claims, the trial court properly found that “the City was not required . . . to use the special master process to seek remedies for these [postjudgment] claims.”

### ***Public Policy***

A government’s police power includes its ability to enforce laws that will protect peace, safety, health and morals of its residents. (*Delucchi v. County of Santa Cruz* (1986) 179 Cal.App.3d 814, 823 (*Delucchi*).) A “government may not contract away its right to exercise the police power in the future.” (*Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 800.) A settlement agreement that does so is “invalid and unenforceable as contrary to public policy.” (*Ibid.*)

We must interpret a contract in a way to “make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties.” (Civ. Code, § 1643.)

The trial court properly interpreted the stipulated judgment as allowing, but not requiring, the use of the special master process for postjudgment claims. This is especially true here because the special master process was shown to be unsuccessful in compelling Pini to comply with code requirements. Limiting the City’s ability to enforce laws designed to protect the health and safety is contrary to public policy. (*Delucchi, supra*, 179 Cal.App.3d at pp. 823-824.) The trial court properly found that requiring the City to resolve future claims through the special master process would unduly limit the City’s police power to enforce code compliance.

### ***Claims in May 2015 Settlement***

Finally, Pini argues the trial court abused its discretion when it “allowed the City to reassert” certain code violation claims that were resolved in a separate May 2015 settlement. We do not reach the merits of this argument because of deficiencies in Pini’s briefs.

An appellant has the burden to demonstrate error. (*Alki Partners, LP v. DB Fund Services, LLC* (2016) 4 Cal.App.5th 574, 589.) An appellant that does not cite accurately to the record forfeits the contention on appeal. (*Ibid.*; Cal. Rules of Court, rule 8.204(a)(1)(C).) Moreover, an appellant that does not provide adequate legal authority and analysis to support a contention forfeits that contention. (*Ewald v. Nationstar Mortgage, LLC* (2017) 13 Cal.App.5th 947, 948 (*Ewald*); *Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324.)

Here, Pini does not provide record citations that show that the City reasserted these code violation claims or that the court considered them. The only record citation Pini provides is to the city attorney's declaration, in which the attorney merely describes Pini's history of code violations. Pini also does not explain how he was prejudiced by this recitation of the parties' historical dealings. As Pini did not provide adequate record citations, legal authority, and analysis to support his contention, we consider this contention to be without merit. (*Ewald, supra*, 13 Cal.App.5th at p. 949.)

**DISPOSITION**

The order is affirmed. The City shall recover costs on appeal.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Colleen K. Sterne, Judge

Superior Court County of Santa Barbara

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