UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

INDEPENDENT LIVING CENTER OF SOUTHERN CALIFORNIA, et al., Plaintiffs, v. CITY OF LOS ANGELES, et al., Defendants.	Case No. CV 12-0551 FMO (PJWx) **ORDER RE: MOTION FOR JUDGMENT ON THE PLEADINGS**

INTRODUCTION

Having reviewed and considered all the briefing filed with respect to defendant CRA/LA Designated Local Authority's ("CRA/LA") Motion for Judgment on the Pleadings, (Dkt. 494, "Motion"), the court finds that oral argument is not necessary to resolve the Motions, see Fed. R. Civ. P. 78; Local Rule 7-15; Willis v. Pac. Mar. Ass'n, 244 F.3d 675, 684 n. 2 (9th Cir. 2001), and concludes as follows.

BACKGROUND

Plaintiffs Independent Living Center of Southern California, Fair Housing Council of San Fernando Valley, and Communities Actively Living Independent and Free (collectively, "plaintiffs") filed this action on January 13, 2012, alleging that the City of Los Angeles ("City") and the Community Redevelopment Agency of the City of Los Angeles ("CRA") "engage[d] in a pattern or practice of discrimination against people with disabilities" in violation of: the Rehabilitation Act, 29

U.S.C. §§ 701, et seq.; the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101, et seq.; and Cal. Gov't Code § 11135. (See Dkt. 1, Complaint at ¶ 85). On February 1, 2012, the CRA was dissolved by California Assembly Bill No. 26 (2011), codified at Cal. Health & Safety Code §§ 34161-91 (the "Dissolution Law"), which "transferr[ed] to successor entities all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies[.]" (Dkt. 98, Second Amended Complaint ("SAC") at ¶ 44). Plaintiffs filed the operative SAC on August 20, 2012, asserting an additional claim under the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601, et seq., (see id. at ¶¶ 245-48), and adding CRA/LA as a defendant. (See id. at ¶¶ 46-52).

LEGAL STANDARD

"After the pleadings are closed – but early enough not to delay trial – a party may move for judgment on the pleadings." Fed. R. Civ. P. 12(c). "Judgment on the pleadings is proper when the moving party clearly establishes on the face of the pleadings that no material issue of fact remains to be resolved and that it is entitled to judgment as a matter of law." Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc., 896 F.2d 1542, 1550 (9th Cir. 1989). The court must accept all factual allegations in the complaint as true, and construe them in the light most favorable to the non-moving party. See Fleming v. Pickard, 581 F.3d 922, 925 (9th Cir. 2009). "[T]he same standard of review applicable to a Rule 12(b) motion applies to its Rule 12(c) analog[,]" because the motions are "functionally identical[.]" Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188, 1192 (9th Cir.), cert. denied, 493 U.S. 812 (1989).

As with a Rule 12(b) motion to dismiss, a Rule 12(c) motion should be granted if the plaintiff fails to proffer "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570, 127 S.Ct. 1955, 1974 (2007); see also Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937, 1949 (2009); Cook v. Brewer, 637 F.3d 1002, 1004 (9th Cir. 2011). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949; see also Cook, 637 F.3d at 1004; Caviness v. Horizon Cmty. Learning Ctr., Inc., 590 F.3d 806, 812 (9th Cir. 2010). In considering a Rule 12(c) motion, the court "generally is limited to the pleadings and may not consider extrinsic evidence[,]" Shame on You

Prods., Inc. v. Banks, 120 F.Supp.3d 1123, 1143-44 (C.D. Cal. 2015), but may rely on exhibits attached to the complaint and documents subject to judicial notice. See id. at 1144.

DISCUSSION

I. MOTION TO STRIKE.

CRA/LA argues that the City lacks standing to oppose the Motion because it has no active cross-claims against CRA/LA. (See Dkt. 514, Motion to Strike at 2). Some courts have held that co-defendants lack standing to oppose each other's motions unless a cross-claim is pending. See, e.g., Eckert v. City of Sacramento, 2009 WL 3211278, *3 (E.D. Cal. 2009) (holding that where "there is no crossclaim between the Defendants . . . [they] are not adverse parties and the City therefore does not have standing to oppose [co-defendant's] motion"); Blonder v. Casco Inn Residential Care, Inc., 2000 WL 761895, *1 (D. Me. 2000) (holding that "one codefendant [may] be the sole, successful, opposition to another codefendant's motion for summary judgment" in the "absence of cross-claims," relying on "principles underlying Rule 56" to avoid trial when appropriate). Other courts have rejected this approach as "unnecessarily myopic[,]" Stone v. Marten Transport, LLC, 2014 WL 1666420, *4 (M.D. Tenn. 2014), and have considered a co-defendant's opposing brief even when the parties are not "on opposite sides of the 'v.'" Id. ("Because [co-defendants] certainly 'have a dog in this fight,' the court finds that they have standing to challenge the motion."); see also Helen of Troy, L.P. v. Zotos Corp., 235 F.R.D. 634, 640 (W.D. Tex. 2006) (rejecting overly narrow construction of "adverse party" in the context of Rule 56). Here, the court is persuaded that the City has a strong interest in the outcome of the Motion and will therefore consider its opposition.[1]

II. MOTION FOR JUDGMENT ON THE PLEADINGS.

"In the aftermath of World War II, the [California] Legislature authorized the formation of community redevelopment agencies in order to remediate urban decay." Cal. Redevelopment Ass'n v. Matosantos, 53 Cal.4th 231, 245 (2011) (describing the history of redevelopment

[1] The court notes, however, that it would have reached the same conclusions regarding the merits of CRA/LA's Motion for Judgment on the Pleadings regardless of whether it considered the City's brief.

agencies). By 2011, nearly 400 redevelopment agencies were active in the state. See id. at 246. In June of that year, the legislature passed, and Governor Jerry Brown signed, the Dissolution Law, which "dissolve[d] all redevelopment agencies . . . and transfer[red] control of redevelopment agency assets to successor agencies, which [we]re contemplated to be the city or county that created the redevelopment agency[.]" Id. at 250-51.

The Dissolution Law "provide[s] a detailed scheme for winding down the activities" of the former redevelopment agencies. See Macy v. City of Fontana, 244 Cal.App.4th 1421, 1428 (2016). Specifically, the scheme divided each redevelopment agency's assets, liabilities, and responsibilities between two distinct entities: a "successor agency" and a "housing successor." See id. at 1428 (explaining that, "other than a [redevelopment agency's] housing assets, all assets and liabilities of individual [redevelopment agencies] would be assumed by individual 'successor agencies' and that the [redevelopment agency's] housing assets would be assumed by individual 'housing successors.'"). The Dissolution Law "gave any municipality that created [a redevelopment agency] the option to become either the [agency's] 'successor agency,' 'housing successor,' or both[.]" Id. at 1428-29; see also Cal. Health & Safety Code §§ 34173(d) & 34176(a)-(b). If a municipality elected not to become the housing successor, the Dissolution Law "permitted [the] local housing authority to become [the] 'housing successor[]'" instead. See Macy, 244 Cal.App.4th at 1428; see also Cal. Health & Safety Code § 34176(b). If the municipality elected not to become the successor agency, the Dissolution Law automatically created a successor agency in the former redevelopment agency's place. See Cal. Health & Safety Code § 34173(d)(3)(A).

The CRA was a redevelopment agency created "to conduct redevelopment and revitalization activities using public and private funds in designated areas of the City of Los Angeles." (Dkt. 98, SAC at ¶ 36). It was overseen by "a Board of Commissioners appointed by the Mayor of the City of Los Angeles and confirmed by the Los Angeles City Council[,]" (id. at ¶ 40), and its "every action" was subject to City Council approval. (See id. at ¶ 41). As a result, when the Dissolution Law was enacted, the City was required to decide whether it would become the CRA's housing successor, successor agency, both, or neither. See Macy, 244 Cal.App.4th

at 1428; Cal. Health & Safety Code §§ 34173 & 34176; (Dkt. 495-1, [CRA/LA's] Request for Judicial Notice ("RJN"), Exhibit ("Exh.") A ("L.A. City Council File No. 12-0049 (2012)")[2] at ECF 5 (explaining that the Dissolution Law "eliminated the CRA[] and necessitated [that the] Council act to determine whether the housing functions and assets of the former CRA[] should revert to [the Housing Authority of the City of Los Angeles] or be transferred to the [Los Angeles Housing Department])).

On January 25, 2012, the City elected to become the CRA's housing successor and thereby "accept transfer of all rights, powers, duties and obligations, except as otherwise provided in [the Dissolution Law], of CRA[] related to [its] housing assets and functions." (Dkt. 495-1, L.A. City Council File No. 12-0049 (2012) at ECF 8-9). The City did not, however, elect to become the CRA's successor agency. (See, generally, id.). Thus, immediately upon the CRA's dissolution, CRA/LA came into existence to serve as the CRA's successor agency. See Cal. Health & Safety Code § 34173(d)(3)(A) ("If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body . . . shall be immediately formed . . . and shall be vested with all the powers and duties of a successor agency[.]"). The question now before the court is whether CRA/LA is responsible for redressing the former CRA's alleged discriminatory conduct as its successor agency, or whether the City alone bears that responsibility as housing successor.

The Dissolution Law states that "successor agencies succeed to the organizational status of the former redevelopment agency, but without any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable

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[2] CRA/LA requests that the court take judicial notice of L.A. City Council File No. 12-0049. (See Dkt. 495, RJN at 2). Neither plaintiffs nor the City oppose this request. (See, generally, Dkt. 501, Defendant City of Los Angeles' Response to Motion For Judgment on the Pleadings ("City Opp."); Dkt. 503, Plaintiffs' Opposition to Defendant CRA/LA's Motion for Judgment on the Pleadings ("Pls.' Opp."). Under Rule 201(b) of the Federal Rules of Evidence, the court may take judicial notice of matters of public record, including official records such as this one. See Fed. R. Evid. 201; Harris v. Cty. of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012) ("We may take judicial notice of undisputed matters of public record[.]"); Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist., 498 F.3d 1031, 1039 n. 2 (9th Cir. 2007) (taking judicial notice of public report and municipal law at issue). Accordingly, the court grants CRA/LA's request as to L.A. City Council File No. 12-0049. (See Dkt. 495-1, L.A. City Council File No. 12-0049 (2012)).

obligation." Cal. Health & Safety Code § 34173(g). The Dissolution Law defines the term "enforceable obligation" to include seven specific types of obligations held by the former redevelopment agency: (1) outstanding bonds; (2) loans subject to repayment; (3) certain other enforceable payment obligations; (4) judgments, settlements, or binding arbitration decisions; (5) certain enforceable agreements; (6) certain other agreements necessary for operating the successor agency; and (7) repayments to the former redevelopment agency's Low and Moderate Income Housing Fund. See id. at §§ 34171(d)(1)(A)-(G). Successor agencies like CRA/LA "lack the authority to, and shall not, create new enforceable obligations or begin redevelopment work, except in compliance with an enforceable obligation . . . that existed prior to June 28, 2011." Id. at § 34177.3(a).

The SAC seeks declaratory and injunctive relief pertaining to the CRA's housing assets, (see Dkt. 98, SAC, Prayer for Relief at 65-68), including: (1) an order declaring that the CRA's housing "policies, practices, acts, and omissions" violate state and federal law, (see id. at ¶ A); (2) an injunction prohibiting any funding, construction, or rehabilitation of housing assets in a manner that fails to comply with applicable accessibility requirements, (see id. at ¶ B); and (3) an order compelling certain action to bring existing housing assets into compliance with those requirements. (See id. at ¶¶ C-D). The SAC also seeks monetary damages resulting from the CRA's alleged discriminatory conduct, as well as attorney's fees and costs incurred in litigating this action. (See id. at ¶¶ E-F). The Dissolution Law makes CRA/LA, as the CRA's successor agency, responsible for all of these remedies. See Cal. Health & Safety Code §§ 34171(d)(1)(C) & 34177.3(b).

One of the enforceable obligations defined by the Dissolution Law involves "[p]ayments required by the federal government, preexisting obligations to the state or obligations imposed by state law[.]" Cal. Health & Safety Code § 34171(d)(1)(C). The SAC alleges that the CRA failed to comply with Cal. Gov't Code § 11135, (see Dkt. 98, SAC at ¶¶ 249-51), which obligated the CRA to "meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 . . . and the federal rules and regulations adopted in implementation thereof[.]" Cal. Gov't Code § 11135(b). These obligations were imposed by state law and existed prior to June 28, 2011. See 2006 Cal. Legis. Serv. Ch. 182 (S.B. 1441) (West) (amending Cal.

Gov't Code § 11135, effective January 1, 2007, to December 31, 2011). Accordingly, they are "enforceable obligations" as defined by the Dissolution Law, and fall within CRA/LA's scope of authority. See Cal. Health & Safety Code § 34171(d)(1)(C) (defining an "enforceable obligation" as an "obligation[] imposed by state law").

CRA/LA contends that it "bears no responsibility for the properties at issue due to the City of Los Angeles's election to become the housing successor and to assume all rights, duties and responsibilities related to the housing functions and assets of the Former Agency." (Dkt. 494, Motion at 5). However, CRA/LA misconstrues the Dissolution Law, which transfers only a redevelopment agency's "rights, powers, duties, obligations, and housing assets" to the housing successor, not its liabilities. See Cal. Health & Safety Code § 34176(a)(1). Moreover, the Dissolution law provides that "[a]ll litigation involving a redevelopment agency shall automatically be transferred to the successor agency." Id. at § 34173(g). It would be irrational for the court to conclude that the Dissolution Law transfers litigation to an entity that cannot be held liable for the claims raised in that litigation. See Wilcox v. Birdwhistle, 21 Cal.4th 973, 977-78 (1999) ("[Courts] must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences."); see also People v. Jeffers, 43 Cal.3d 984, 998-99 (1987) ("Courts are reluctant to attribute to the Legislature an intent to create an illogical or confusing scheme; legislative policy is best effectuated by avoiding those constructions which lead to mischief or absurdity.") (internal quotation marks and citations omitted); Torres v. Parkhouse Tire Service, Inc., 26 Cal.4th 995, 1003 (2001) ("In interpreting a statute where the language is clear, courts must follow its plain meaning.").

CRA/LA also urges the court to follow the reasoning set forth in the December 17, 2015, determination letter issued by the California Department of Finance ("DOF"). (See Dkt. 494, Motion at 5; Dkt. 495-8, RJN, Exh. H ("DOF Letter")).[3] According to the DOF Letter, in April 2013,

[3] CRA/LA requests that the court take judicial notice of the DOF Letter, (see Dkt. 495, RJN at 3), and neither plaintiffs nor the City oppose this request. (See, generally, Dkt. 501, City Opp.; Dkt. 503, Pl's. Opp.). Accordingly, the court grants CRA/LA's request as to the DOF Letter. See

CRA/LA and the City entered into an Affordable Housing Assets and Functions Agreement ("HAT Agreement"), which obligated CRA/LA to "retain the responsibility to remedy any claims or liability that existed prior to the transfer of housing assets" to the City. (See Dkt. 495-8, DOF Letter at ECF 2-3). Based on the HAT Agreement, CRA/LA entered into a Voluntary Compliance Agreement ("VCA") with the U.S. Department of Housing and Urban Development ("HUD") in September 2014, to retrofit 22 federally-funded housing developments that did not comply with the accessibility requirements imposed by federal law. (See id. at ECF 2). To fund the retrofit, CRA/LA submitted a funding request to the DOF for approval. (See id.). After reviewing certain evidence provided by CRA/LA, the DOF determined that the HAT Agreement violated the Dissolution Law's mandate that "all rights, powers, duties, obligations, and housing assets . . . shall be transferred to the city." (See id. at ECF 2-3). The DOF also found that there was no "enforceable obligation prior to June 28, 2011[,]" and thus CRA/LA had no authority to administer the retrofit. (See id. at ECF 3). Accordingly, the DOF denied CRA/LA's funding request and concluded that it "did not have the authority to enter into the [VCA] with HUD" in the first place. (See id.).

The court agrees with plaintiffs and the City that the DOF Letter should be afforded "little to no weight." (See Dkt. 501, City Opp. at 10). As an initial matter, the DOF is not a court of law and, in any event, its letter carries little, if any, persuasive value given its cursory analysis of the Dissolution Law. (See, generally, Dkt. 495-8, DOF Letter) (failing to consider the Dissolution Law provision automatically transferring litigation to the successor agency). The DOF based its conclusion regarding enforceable obligations on the absence of evidence rather than the application of law. (See Dkt. 503, Pls.' Opp. at 13-14). The DOF merely concluded that "**no other information or documentation was provided** by [CRA/LA] to demonstrate an enforceable obligation prior to June 28, 2011[,]" (Dkt. 495-8, DOF Letter at ECF 3) (emphasis added), implying that the DOF might have concluded otherwise if confronted with different or additional evidence. The court is not aware, and CRA/LA does not identify, what evidence the DOF had at its disposal

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supra, n. 2; Harris, 682 F.3d at 1132.

when it determined that no enforceable obligation existed prior to June 28, 2011. (See, generally, Dkt. 494, Motion; Dkt. 513, [CRA/LA's] Reply in Support of Motion for Judgment on the Pleadings). Apparent from the face of the DOF Letter, however, is the fact that the DOF did not consider the obligations imposed on the CRA by Cal. Gov't Code § 11135(b) prior to June 28, 2011, (see, generally, Dkt. 495-8, DOF Letter), which constitute "enforceable obligations" under the Dissolution Law. See Cal. Health & Safety Code § 34171(d)(1)(C) (defining an "enforceable obligation" as an "obligation[] imposed by state law").

Further, even assuming the obligations imposed by Cal. Gov't Code § 11135(b) did not constitute enforceable obligations, CRA/LA would nevertheless be subject to liability in this case. The Dissolution Law authorizes a successor agency like CRA/LA to "create enforceable obligations to conduct the work of winding down the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance." Cal. Health & Safety Code § 34177.3(b). Assuming the Dissolution Law prevents CRA/LA from creating a new enforceable obligation to remediate the CRA's housing assets, see id.,[4] it nevertheless does not prevent CRA/LA from paying the damages, costs, or attorney's fees sought by plaintiffs. (See, generally, id.). In the court's view, the Dissolution Law necessarily must authorize CRA/LA to create a new enforceable obligation to compensate a plaintiff injured by the CRA's conduct; to hold otherwise would prevent CRA/LA from winding down the litigation pending against the CRA, thereby frustrating its primary purpose of winding down the CRA's affairs. See 2011 Cal. Legis. Serv. Ch. 5 (A.B. 26) (West) ("It is the intent of the Legislature to do all of the following in this act: . . . [r]equire successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs."). The court declines CRA/LA's invitation to construe the Dissolution Law in a manner that

[4] Cal. Health & Safety Code § 34177.3(b) provides that "the work of winding down the redevelopment agency does not include planning, design, redesign, development, demolition, alteration, construction, construction financing, site remediation, site development or improvement, land clearance, seismic retrofits, and other similar work."

frustrates the very goals it seeks to accomplish. See Wilcox, 21 Cal.4th at 977-78; Jeffers, 43 Cal.3d at 998-99.

Finally, CRA/LA may be subject to successor liability arising from plaintiffs' federal claims under the Rehabilitation Act, the ADA, and the FHA. (See Dkt. 98, SAC at ¶¶ 236-38 & 242-48) (asserting Rehabilitation Act, ADA, and FHA claims); see also Equal Rights Ctr. v. Equity Residential, 2016 WL 1258418, *6 (D. Md. 2016) (holding that defendant in FHA action "can be held responsible for design and construction violations . . . under the continuity of enterprise theory of successor liability"); E.E.O.C. v. Rockwell Int'l Corp., 36 F.Supp.2d 1056, 1057 (N.D. Ill. 1999) (concluding that "successor liability is available under the ADA"); Fleming v. Yuma Reg'l Med. Ctr., 587 F.3d 938, 944 (9th Cir. 2009) ("Whether suit is filed under the Rehabilitation Act or under the [ADA], the substantive standards for determining liability are the same."). When a federal statute "is silent as to whether federal or state common law standards should apply in evaluating successor liability[,] . . . the national interest in the uniform enforcement of [the statute] and the same interest in preventing evasion by a responsible party by even legitimate resort to state law are the reasons [why] successor liability is appropriate . . . and a uniform federal standard is needed for determining liability[.]" Equal Rights Ctr., 2016 WL 1258418, at *5; see also United States v. Gen. Battery Corp., 423 F.3d 294, 298 (3d Cir. 2005), cert. denied, 549 U.S. 941 (2006) (noting in CERCLA case that "[a]lthough the statute fails to address the issue expressly, it is now settled that . . . CERCLA successor liability is a matter of uniform federal law").

Successor liability under federal common law "is primarily factual in nature and is based upon the totality of the circumstances of a given situation[,]" Fall River Dyeing & Finishing Corp. v. N.L.R.B., 482 U.S. 27, 43, 107 S.Ct. 2225, 2236 (1987), and "[c]ourts have stressed the intensely fact-specific nature of the inquiry." Sullivan, 623 F.3d at 782; see Howard Johnson Co., Inc. v. Detroit Local Joint Exec. Bd., 417 U.S. 249, 256, 94 S.Ct. 2236, 2240 (1974) ("Particularly in light of the difficulty of the successorship question, the myriad factual circumstances and legal contexts in which it can arise, and the absence of congressional guidance as to its resolution, emphasis on the facts of each case as it arises is especially appropriate."). Depending on the context of a given case, the Ninth Circuit has used different formulations to define the elements

of successor liability. See, e.g., Atchison, Topeka and Santa Fe Ry. Co. v. Brown & Bryant, Inc., 159 F.3d 358, 362-64 (9th Cir. 1998) (corporate acquisition context); Steinbach v. Hubbard, 51 F.3d 843, 845 (9th Cir. 1995) (employment context). For example, in the corporate acquisition context, the Ninth Circuit has held that "asset purchasers are not liable as successor corporations unless: (1) [t]he purchasing corporation expressly or impliedly agrees to assume the liability; (2) [t]he transaction amounts to a 'de-facto' consolidation or merger; (3) [t]he purchasing corporation is merely a continuation of the selling corporation; or (4) [t]he transaction was fraudulently entered into in order to escape liability." Atchison, Topeka and Santa Fe Ry. Co., 159 F.3d at 362-64. "The primary question . . . is whether, under the totality of the circumstances, there is 'substantial continuity' between the old and new enterprise." Resilient Floor Covering Pension Trust Fund Bd. of Trustees v. Michael's Floor Covering, Inc., 801 F.3d 1079, 1090 (9th Cir. 2015), cert. denied, 136 S.Ct. 2379 (2016) ("Resilient Floor").

Similarly, in the employment context, "successor liability can attach when 1) the subsequent employer was a bona fide successor and 2) the subsequent employer had notice of the potential liability." Steinbach, 51 F.3d at 845-46 (setting forth considerations under the National Labor Relations Act). The court must also consider "the extent to which the predecessor is able to provide adequate relief directly." Id. at 846. Ultimately, "[s]uccessor liability is an equitable doctrine, not an inflexible command," Carpenters Health & Sec. Trust of W. Wash. v. Paramount Scaffold, Inc., 2016 WL 374554, *3 (W.D. Wash. 2016), and thus "[d]epending on the statutory context and the type of claim, certain factors may warrant greater or lesser emphasis." Resilient Floor, 801 F.3d at 1091.

The Ninth Circuit has not addressed successor liability in a situation where, as here, the predecessor entity was dissolved and the successor entity created by operation of state law. Yet, it is well-settled that a state cannot pass a law (i.e., a reorganization law) that, in effect, evades a state or local governmental entity's obligations under federal law. In other words, to the extent that the Dissolution Law may be construed as limiting CRA/LA's liability under the Rehabilitation Act, the ADA, or the FHA, it still does not permit CRA/LA to avoid its obligations under those laws to provide plaintiffs a complete remedy for civil rights violations allegedly committed by the CRA.

See, e.g., North Carolina State Board of Education v. Swann, 402 U.S., 43, 45, 91 S.Ct. 1284, 1286 (1971) (noting that "if a state-imposed limitation on a school authority's discretion operates to inhibit or obstruct" federal law requirements, "it must fall"); Crowder v. Kitagawa, 81 F.3d 1480, 1485 (9th Cir. 1996) (holding that, "[w]hen a state's policies, practices or procedures discriminate against the disabled in violation of the ADA," public entities must make "reasonable modifications in such policies, practices or procedures . . . unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity"); Helen L. v. DiDario, 46 F.3d 325, 338 (3d Cir. 1995) (noting that a state agency "can not rely upon a funding mechanism . . . to justify administering [a] program in a manner that discriminates and then argue that it can not comply with the ADA without fundamentally altering [the] program"). While the parties may disagree as to the temporal scope for which each party is potentially liable, there is no dispute that the CRA's and thus CRA/LA's potential liability is covered by the temporal scope of this case. As plaintiffs noted, "[t]his Court . . . can enter judgment against the CRA/LA for the violations alleged in the Second Amended Complaint, regardless of how state law allocates responsibility for satisfying the judgment. The intricacies of the state-law administrative and judicial processes that will later determine which entity satisfies that judgment, and out of what funding stream, are irrelevant to the questions properly before this Court." (Opp. at 18).

In short, "[b]ecause the origins of successor liability are equitable, fairness is a prime consideration in its application." Criswell v. Delta Air Lines, Inc., 868 F.2d 1093, 1094 (9th Cir.), cert. denied, 489 U.S. 1066 (1989); see Bates v. Pac. Mar. Ass'n, 744 F.2d 705, 710 (9th Cir. 1984) ("[B]oth fairness and necessity are inherent considerations in successorship analysis."). Further, because "[t]here is, and can be, no single definition of 'successor' which is applicable in every legal context[,]" Resilient Floor, 801 F.3d at 1091, the court is persuaded that same general principles of successor liability are applicable here.[5] Applying these principles to the

[5] Courts have often "adopted and applied the same considerations" when analyzing successor liability in different contexts. See Sullivan v. Dollar Tree Stores, Inc., 623 F.3d 770, 781 (9th Cir. 2010). In general, the same "successorship doctrine extends to legal obligations arising under" a wide variety of federal statutes, including the NLRA, FLSA, Title VII, the FMLA, and others. See Resilient Floor, 801 F.3d at 1090; see also Steinbach, 51 F.3d at 845 (explaining that "federal

circumstances of this case, the court finds that CRA/LA could be held liable as a successor to the CRA for the violations alleged in the SAC.[6] Given the extensive factual allegations contained in the SAC, (see Dkt. 98, SAC), the court cannot say that "no material issue of fact remains to be resolved and that [CRA/LA] is entitled to judgment as a matter of law." Hal Roach Studios, Inc., 896 F.2d at 1550. The interests of fairness are best served by allowing plaintiffs to litigate their claims against the entity tasked with winding down the redevelopment agency that allegedly violated plaintiffs' civil rights under the ADA, FHA, and Rehabilitation Act, as well as Cal. Gov't Code § 11135. Whether and to what extent that entity is subject to successor liability can be determined at trial or in post-trial proceedings.

CONCLUSION

Based on the foregoing, IT IS ORDERED THAT defendant CRA/LA's Motion for Judgment on the Pleadings **(Document No. 494)** is **denied**.

Dated this 31st day of August, 2016.

/s/
Fernando M. Olguin
United States District Judge

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courts have developed a federal common law successorship doctrine that now extends to almost every employment law statute[,]" including the MPPAA, the MSHA, the ADEA, and ERISA). "In deciding to extend successorship liability to other contexts, courts have recognized that extending liability to successors will sometimes be necessary in order to vindicate important statutory polices[.]" Steinbach, 51 F.3d at 845. Here, since plaintiffs raise Rehabilitation Act, ADA, and FHA claims, the court "looks to those courts which have interpreted Title VII successor liability as guidance[.]" McKee v. Am. Transfer & Storage, 946 F. Supp. 485, 487 (N.D. Tex. 1996) (citation omitted) ("The administrative procedures and the remedies under Title VII are the same as those available under the ADA."); see also Pac. Shores Properties, LLC v. City of Newport Beach, 730 F.3d 1142, 1158 & n. 19 (9th Cir. 2013) (holding that Title VII standards apply to ADA and FHA claims); Fleming, 587 F.3d at 944 ("Whether suit is filed under the Rehabilitation Act or under the [ADA], the substantive standards for determining liability are the same.").

[6] While CRA/LA's potential for successor liability likely cuts off on January 25, 2012, the date on which the City expressly assumed the housing functions previously carried out by the CRA, (see Dkt. 495-1, L.A. City Council File No. 12-0049 (2012) at ECF 6), the parties will have to litigate the temporal scope of each party's potential liability so that damages and injunctive relief can be apportioned properly.