

BRIEFING NOTE #37 — THE TOS, FUKUDA CASE — 2

The Tos, Fukuda case – This morning (3.8.16) we received the ruling that the Superior Court disagreed with our argument that PropIA's foundation (AB3034) spoke, not just about the use of PropIA bonds to fund the high-speed rail (HSR) project, but also about any funds that may be used for capital costs. The HSR Authority can use federal funds (the only source presently being used) and also 25% of Cap & Trade auction funds, if and when the State wins the two lawsuits against the auctions' legality.

This is a setback; not a defeat. Why? Because this ruling did not overturn the 2013 ruling (upheld by the Appellate Court) that although we were premature with our complaint because we cannot sue until they have a Second Funding Plan approved for the HSR project. It's called 'ripeness.'

To date, 27 months after the Appellate Court decision, there has been no attempt to prepare a Second Funding Plan, which has to not only be certified by numerous State agencies, but prepared and certified by an independent financial corporation.

We are status quo ante. But we're very busy reviewing the Authority's marketing document, issued under the title Draft 2016 Business Plan.

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