

January 26, 2001

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SAN DIEGO HOTEL CO., LLC v. REDEVELOPMENT AGENCY OF SAN DIEGO, ET AL.
SAN DIEGO SUPERIOR COURT CASE NO. GIC 739330

SAN DIEGO HOTEL CO., LLC v. REDEVELOPMENT AGENCY OF SAN DIEGO, ET AL.
SAN DIEGO SUPERIOR COURT CASE NO. GIC 740880

INTRODUCTION

The litigation of the above-entitled matters, environmental and land-use challenges to the Downtown Ballpark and Ancillary Development Projects, has been successfully concluded.

FACTS

Both of these cases were brought by the San Diego Hotel Company, LLC, which operates the Clarion Hotel on “K” Street between Sixth and Seventh Avenues in the Centre City area of San Diego. One case was brought pursuant to the California Environmental Quality Act [CEQA], and challenged the sufficiency of the Environmental Impact Report for the proposed projects. The other case was brought pursuant to California redevelopment law, and challenged the amendments to the Centre City Redevelopment Plan adopted by the City Council to accommodate the projects.

On October 26, 1999, the City Council adopted amendments to the Centre City Redevelopment Plan which added a Sports/Entertainment District to the plan, listed desired uses and improvements within that Sports/Entertainment district, including transit stations, parks, parking facilities and a ballpark, and reduced the number of housing units in the plan. In addition, on October 26, 1999, the Council also certified the Final Subsequent Environmental Impact Report [FSEIR] for the Ballpark and Ancillary Development Projects and Associated Plan Amendments, thereby approving the development of a new downtown ballpark, the “Park at the Park” (a public gathering area at the open, centerfield end of the ballpark), “Retail at the Park” (an entertainment complex along Seventh Avenue and “J” Street), offsite parking, infrastructure improvements, and ancillary development projects, including hotels, commercial and office space, and housing.

CONTENTIONS

In the redevelopment law case, the Clarion contended that the City’s adoption of the redevelopment plan amendments should be nullified because of the City’s alleged failure to respond in writing to Clarion’s written objections to the proposed amendments.

In the CEQA [California Environmental Quality Act] case, the Clarion contended that the

FSEIR was inadequate because it failed to adequately describe the proposed high-rise hotel to be built a block south of the Clarion, failed to consider or mitigate view impacts to the Clarion caused by that hotel, failed to consider alternatives to that hotel, and failed to adequately analyze the noise, light, glare and traffic impacts of the ballpark on the Clarion and on the area around the proposed ballpark.

LITIGATION

Both cases were fully briefed and argued before the Honorable Judith McConnell in the San Diego Superior Court on March 6, 2000. Judge McConnell found for the City on both cases, and entered judgment accordingly. The Clarion appealed both cases, and the matters were again briefed and argued to the Fourth District Court of Appeal on December 11, 2000. The appellate court affirmed the lower court's rulings in both cases in an unpublished opinion issued on December 29, 2000. A copy of that opinion is attached.

The Clarion filed a petition for rehearing in the appellate court, which was denied, and will likely seek review by the California Supreme Court. It is doubtful that such review will be granted. For all intents and purposes, this should be the end of any land use-based challenges to the ballpark project.

Deputy City Attorney Theresa McAteer handled the redevelopment case on behalf of the City and the Redevelopment Agency in both the trial and appellate courts. Deputy City Attorney Francis M. Devaney likewise handled the CEQA case in both courts.

Respectfully submitted,

/ S /

CASEY GWINN
City Attorney

FMD:km (043.1)
Attachments
RC-2001-3