

December 13, 1991

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

KREISNER V. CITY OF SAN DIEGO

Today, District Court Judge Marilyn Huff issued an order reaffirming Judge Enright's November 8, 1989 order that the "City's practice of allowing a private committee to display a nativity scene during December does not violate the federal or state constitution."

The case was remanded back to the district court here from the 9th Circuit Court of Appeals for further factual findings on the City's policies for granting permits for the use of Balboa Park. The court received oral and written testimony and agreed with Judge Enright that the City did not violate federal constitutional establishment and free speech clauses. The court further found that the City's allowance of the nativity scene display also did not violate the California constitutional provisions.

The case will now return to the 9th Circuit Court of Appeals, which may uphold or overturn the decisions of these two lower courts.

Respectfully submitted,
JOHN W. WITT
City Attorney

MKJ:pev(043.1)
RC-91-63