

August 3, 1994

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
RE--RECENT LITIGATION

MIRA LAGO PARK CONSERVANCY, et al. v. CITY OF SAN DIEGO, et al.
ELEANOR A. JOHNSON v. CITY OF SAN DIEGO, et al.
STEINBERG v. CITY OF SAN DIEGO, et al.

We are pleased to report on the results of the above-entitled cases. In the first matter, Mira Lago Park Conservancy, et al. v. City of San Diego, et al., the plaintiffs sought to preclude the construction of a long-planned park at the eastern end of Miramar Lake. The plaintiffs challenged the sufficiency of the Environmental Impact Report for the park and also contended that the park was inconsistent with the General and Community Plans. The trial court ruled that the EIR was sufficient and that the park was consistent with the Land Use Plans. In an unpublished decision, the Court of Appeal agreed. The construction of the park was stayed during the pendency of the litigation but now that the litigation has been favorably resolved, the construction may go forward. Chief Deputy City Attorney Leslie J. Girard represented the City in both the trial and appellate courts.

The second case, Eleanor A. Johnson v. City of San Diego, et al., was an action by the plaintiff for reinstatement in her position as a Police Officer II. The plaintiff was originally terminated in 1983 for being absent without leave, for failing to obey a lawful order and for not reporting for duty as required. The plaintiff appealed her termination to the Civil Service Commission, sought a leave of absence and sought industrial disability retirement benefits. In mid-1984, the plaintiff and the City entered into a settlement agreement which allowed the plaintiff a special leave of absence without pay with her name to be placed on the eligibility list for Police Officer II. The plaintiff's leave expired without her having been rehired and thus her position with the City was fully terminated. The plaintiff filed litigation seeking, amongst a variety of remedies, reinstatement as a Police Officer II and back pay. The trial court ultimately denied her relief and the appellate court, in an unpublished decision, affirmed that decision. Former Deputy City Attorney Steven R. Gustavson represented the City

before the trial court. Chief Deputy City Attorney Leslie J. Girard represented the City before the appellate court, The final case, Steinberg v. City of San Diego, was litigation arising from the grant of a Coastal Development/Hillside Review Permit for the development of a lot in La Jolla. The original application was for the construction of a drive-way which was ultimately amended to include construction of a residence with landscaping. Plaintiff's neighbor opposed the application for the permit, which the Planning Director initially had approved. The neighbor appealed to the Planning Commission which denied the appeal, having the effect of upholding the grant of the permit. The neighbor appealed to the City Council which denied the appeal. The neighbor filed suit and the trial court held that the permit was properly granted. The appellate court concurred in that decision. Deputy City Attorney Keri G. Katz represented the City in the trial court and in the appellate court, with the assistance of Chief Deputy City Attorney Leslie J. Girard.

Respectfully submitted,
JOHN W. WITT
City Attorney

LJG:vtc:Lit.
Attachments
RC-94-33
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