

June 5, 1995
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SAATHOFF V. CITY OF SAN DIEGO

We are pleased to inform you of a favorable decision by the Court of Appeal upholding the Superior Court's denial of Mr. Saathoff's petition for a writ of mandate in this lawsuit.

The issue before the Court was whether the City violated Charter Section 103 by reason of authorizing a contract for paramedic systems management by a resolution adopted by a bare majority of the City Council. Mr. Saathoff contended the City granted a "franchise" as defined by the Charter, which requires such an award only by a vote of two-thirds of the Council and by an ordinance.

BACKGROUND

On February 23 and 29, 1993, the City Council adopted resolutions authorizing the award and execution of the paramedic contract with American Medical Services.

On April 20, 1993, Mr. Saathoff brought his suit as a taxpayer against the City. Mr. Saathoff was and is president of the San Diego Firefighters local union.

On June 18, 1993, a hearing on the petition was held and on June 21, 1993, the Superior Court ruled denying the writ. Mr. Saathoff appealed the decision to the Court of Appeal, Fourth District.

A second lawsuit (S.D. County Ambulance Assn. v. City of S.D.) raised the additional issue of legality of the RFP process and lost at the trial court. That case was also appealed but later voluntarily dismissed.

THE COURT OF APPEAL RULING

On May 31, 1995, the Court of Appeal rendered its written opinion concluding in the introduction,

Given the relatively short term, four-year duration of the contract and the impermanent nature of the possessory use of public property, we hold the contract need not be deemed a franchise as a matter of law so as to invalidate the otherwise lawful exercise of governmental authority.

American Medical Services was represented in the case as the real party in interest.

It is unknown as to whether Mr. Saathoff will seek review by the California Supreme Court. We believe there is substantial doubt however, that the Supreme Court would grant such review if requested.

Senior Chief Deputy C. Alan Sumption tried the case for the City.

If you have questions or desire a copy of the opinion, please let us know.

Respectfully submitted,

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City Attorney

CAS:dk:Lit.(043.1)

RC-95-13