

May 4, 1999

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SAN DIEGO CITY FIREFIGHTERS LOCAL 145 v. CITY OF SAN DIEGO, ET AL.
SAN DIEGO SUPERIOR COURT CASE NO. 728123

The labor union representing City of San Diego firefighters recently filed a petition in San Diego Superior Court, requesting the court to order the City to meet and confer with the union regarding the limited employment status of nineteen recent graduates of the Thirteenth Fire Academy and to reclassify those employees as permanent ones. The writ petition was denied by the court on April 5, 1999.

FACTS AND CONTENTIONS

In June of 1997, the City Council awarded a five-year contract for the provision of emergency medical response and transport services to San Diego Medical Services Enterprise, a limited liability partnership between Rural/Metro Corporation and the City's Fire and Life Services Department. In order to meet the personnel requirements necessary to comply with the contract, the City was forced to hire single-role paramedics and emergency medical technicians into its work force, positions previously unnecessary because of the City's historical practice of contracting with outside companies for ambulance service. In order to further accomplish the goals of the contract's unique design to fully integrate paramedic and fire-fighting services, the City also agreed to cross-train those emergency medical employees as firefighters.

In addressing these new personnel requirements, City management recognized that the contract with San Diego Medical Services Enterprise was for a limited duration and could very well not be renewed at its expiration. Management, therefore, designated the new Paramedic classifications as limited-status appointments, without seniority, permanent status, or appeal rights for terminations. The nineteen employees who are the subject of the union's petition were hired into these limited-status positions. After being hired, the employees were cross-trained as firefighters in the Thirteenth Fire Academy at Miramar College, from which they have recently graduated as Firefighters I.

In its writ petition, the union contended that the City should have met and conferred with it regarding the employees' limited employment status and that the nineteen firefighters should now automatically become permanent City employees. The union claimed that the City's unilateral action in classifying Firefighters I as limited employees was an unprecedented change

from past City practice and in the terms and conditions of employment of firefighters, who have historically always been permanent employees with full seniority rights and Civil Service protections, that the City, therefore, was required to meet-and-confer with the union before any such classification action was taken, and that classifying these nineteen Firefighters I as limited employees violates the City Charter and the Memorandum of Understanding between the union and the City.

In response, the City contended that its decision to hire and maintain the nineteen affected employees was a policy-based, managerial one falling outside the union's scope of representation, that there was no requirement that the union be consulted or included in the City's decision to reorganize and cross-train its workforce to comply with the contract with San Diego Medical Services Enterprise, and that the City's actions were legal and specifically authorized by the Municipal Code and the City's Civil Service Rules and Personnel Regulations.

LITIGATION

The Petition for Writ of Mandate was denied on April 12, 1999, in a telephonic ruling by the Honorable J. Richard Haden. Judge Haden found that the decision to hire and maintain the nineteen employees in a limited status was clearly a managerial one falling outside the union's scope of representation and was, therefore, not subject to the meet-and-confer requirements of the Government Code. Oral argument requested by the attorney for Local 145 was held on April 6, 1999, but the court confirmed its previous ruling in favor of the City. An appeal of the ruling is expected soon.

Deputy City Attorney Francis M. Devaney represented the City throughout the proceedings, and is expected to handle the appeal as well.

Respectfully submitted,

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City Attorney

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