

OFFICE OF THE SAN DIEGO CITY ATTORNEY
LEGAL ACCOMPLISHMENTS IN COURT

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**UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT**

City of San Diego v. U.S. District Court for the Southern District of California

Respondent, Kinder Morgan Energy Partners

Case No. CV-07-01883-W-AJB

Petition for Writ of Mandamus

August 12, 2008

Ruling allows City to keep its outside counsel. The case can now proceed against petroleum pipeline company that contaminated property and polluted water supply near Qualcomm Stadium.

Steve Trunk v. City of San Diego

Case No. CV-06-01597-LAB

June 11, 2008

Appeal dismissed against City of San Diego in Mount Soledad Cross Case. City is no longer a party to lawsuit against the Federal Government.

**UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF CALIFORNIA**

**Erica Aaron v. City Attorney Michael Aguirre, the City and Retirement System, Case
No. 06-CV-1451**

Defendants' Motion for Summary Judgment

September 3, 2008

A Federal District Court Judge dismissed a lawsuit filed by more than 1,500 individual San Diego police officers alleging violations of their federal constitutional rights in 2005, when a one-year labor contract was imposed by the City due to the failure of both sides not reaching a labor agreement.

Marcus R. Abbe v. City of San Diego

Case No. 05cv11629 DMS (JMA)

Defendant's Motion Summary Judgment

November 9, 2008

City is not obligated to compensate San Diego Police Officers for the alleged overtime incurred "donning and doffing" their police uniforms and safety equipment.

Estate of Billy Venable, et al. v. City of San Diego

Case No. 05cv1559 IEG (JMA)

Jury Verdict

February 15, 2008

Federal Jury returns verdict in favor of three San Diego Police Officers who were sued by the family and Estate of Billy Venable, Sr. for the wrongful death of Bill Venable, Sr. The jury found the officers acted in self-defense.

CALIFORNIA FOURTH DISTRICT COURT OF APPEAL

Philip K. Paulson v. Charles Abdelnour, as City Clerk, etc., et al

Case No. GIC 849667

Court Decision

November 30, 2006

Court of Appeals unanimously upholds the will of the citizens to donate the Mt. Soledad Veteran's War Memorial to the federal government. The appellate court decision reverses an October 2005 ruling by a lower court that stated the land donation violated the State Constitution.

SAN DIEGO SUPERIOR COURT CIVIL & CRIMINAL COURT CASES

Border Business Park v. City of San Diego

Case No. 692794

September 12, 2008

The San Diego Superior Court awarded the City of San Diego \$4.4 million in attorney's fees as a result of prevailing in the remaining claim filed by South Bay developer Roque De La Fuente II, which was dismissed this past June.

People of the State of California v. Prudential Overall Supply

Case No. 37-2007-00075766-CU-BT-CTL

July 11, 2008

Stipulated Judgment

City prevails in lawsuit to ensure that contractors abide by the City's Living Wage Ordinance. Contractor ordered to pay \$45,500 in back wages to employees.

People of the State of California v. Steve Mansour Kassab and Joandark Kassab

Case Nos. Consolidated: EG3299/Joandark Kassab M002119-01;EG3300/Steve Kassab M002119-02;EP9508/Joandark Kassab M037756-02;EP9507/Steve Mansour Kassab M037756-03

Criminal Prosecution by DART

June 30, 2008

The son of a local smoke shop owner was sentenced to jail and the shop owner received probation. In a jury trial, both were convicted in of 23 counts of selling methamphetamine and crack cocaine pipes.

Roque de la Fuente v. City of San Diego

Case No. 692794

Demurrer

June 27, 2008

Successful litigation eliminated a lawsuit valued up to hundreds of millions of dollars against the City. The order dismissed South Bay developer Roque de la Fuente's remaining claim against the City stemming from his Otay Mesa Business Park, variously known as Border Business Park or De La Fuente Business Park. In 2001, a jury awarded De La Fuente \$94.5 million in damages on his assertion that the City's actions drove the park into bankruptcy. That liability later ballooned to about \$150 million with interest, and de la Fuente sought an additional \$30 million in attorney's fees.

People v. Hermanos Lopez, Inc.

Civil Case No. 37-2008-00086557-CU-MC-CTL

Prosecution by Code Enforcement Unit

June 23, 2008

Property owner of a vacant undeveloped parcel was leasing the site to a large swap meet operator, who used the land for parking in violation of zoning laws. Additional violations included illegal grading, storm drain violations, non-permitted structures, and non-incident storage.

De Anza Cove Homeowners Association, Inc. vs. City of San Diego

Case No. GIC 821191

March 7, 2008

Court rejects De Anza Plaintiffs' \$48 million claim against the City, as it sought to resolve over two decades of litigation over the closure of the De Anza Mobile home Park located on Mission Bay.

City of San Diego v. The Mercado Alliance, LLP.

GIC 865872.

June 1, 2007

Court ruling made it clear that the City is the rightful owner of a Barrio Logan property and not the developer—The Mercado Alliance, LLP. The stalled development had become known as the “Mercado Project,” which proposed a proposed supermarket and a housing complex.

People v. Hennessey's Tavern Inc., Case Number M992418CE; People v. Gaslamp Tavern LLC.; Case number M011823CE; People v. Xavier's Bar and Grill, Case Number M011568CE

Criminal Misdemeanor Prosecution by Code Enforcement Unit

May 31, 2007

Three local night clubs prosecuted for allowing dangerous overcrowding violations in their clubs, thereby subjecting patrons to serious safety risks.

People v Edwards

Case No. M000940CE

People v. Miura Properties

Case Number M998940CE

Criminal Misdemeanor Prosecution by Code Enforcement Unit

January 24, 2007

Two negligent property owners prosecuted for failing to rehabilitate their vacant properties in Sherman Heights and East Village. The properties were used for transient and criminal activity, including illegal drug use, alcohol abuse, and graffiti.

People v. Vien Dong, Inc., et al.

Case No. M040058CE

Criminal Prosecution by Code Enforcement Unit

June 17, 2008

Lessee of a property in Linda Vista prosecuted for maintaining an abandoned vacant commercial structure which had become a public nuisance to the community: tagged by graffiti, presented a fire hazard, attracted transients, and a large accumulation of stagnant water, trash, and debris which posed a health hazard.

People v. Michael K. Yubane

Case No. M040747CE

Criminal Misdemeanor Prosecution by Code Enforcement Unit

April 21, 2008

Case referred by the San Diego Police because of neighborhood complaints regarding fights, drugs, and alcohol use at this “sober” living facility being operated in a residential zone. A criminal complaint resulted in eviction of problem tenants and prohibition against owner operating a care facility.

People v. Brigid Callahan as Successor Co-Trustee of the Lawrence Callahan Trust

Case No. M029703CE

Criminal Misdemeanor Prosecution by Code Enforcement Unit

April 21, 2008

Complaint filed against owner of a vacant burned out shell that had become known as the “F Street Skeleton” in Golden Hills and continually attracted transients and graffiti. Structure was demolished.

People v. William Bruce Minter II

Case No. M036104CE

Criminal Misdemeanor Prosecution by Code Enforcement Unit

March 20, 2008

Property owner prosecuted for maintaining several fire hazards at a commercial property, including operating a church between two high hazard uses without the proper sprinkler components and fire rated walls and a highly combustible illegal spray paint booth in violation of the California Fire Code.

People v. CLL-Roselle, LLC

Case No. 37-2007-00082605-CU-MC-CTL

Civil Prosecution by Code Enforcement Unit

December 19, 2007

Owner and commercial lessee of a property in an agricultural zone allegedly violated zoning laws. The property was being used as a truck driving training facility. Grading had occurred at the property, resulting in the destruction of sensitive lands.

City of San Diego v. Pamela Guzman et seq. dba Masingale Independent Living

Case No: 37-2007-00078451

Civil Litigation Prosecuted by DART Unit

November 2007

Owners of a troubled independent living facility for the mentally ill reached a settlement of charges that alleged mismanagement, including failure to maintain proper supervision, illegal drug use, assaults, and other disturbances at the facility. The settlement required the facility to be vacated, and permanently prohibited the owners from operating any type of group home or residential care facility in the City of San Diego.

People v. Panado

Case No. 37-2007-00070995-CU-MC-CTL

Civil Prosecution by Code Enforcement Unit

July 27, 2007

Owner of substandard 14-units complex located in south San Diego had vacant units, which were occupied by transients and drug addicts who left drug paraphernalia, trash, and graffiti throughout the property. Sewage overflowed periodically. Settlement required owner to pay tenant relocation costs.

People v. David N. Catton

Case No. 37-2007-00067831-CU-MC-CTL

Civil Prosecution by Code Enforcement Unit

June 21, 2007

Owner of a historic vacant structure in University Heights had neglected the property. It had been vacant since 1998 and was significantly deteriorating, attracting transients, and creating a public nuisance. The settlement required the owner to restore the structure as well as keep it properly weatherproofed.

People v. Strawberry Hut, LLC et al.

Case No. 37-2007-00067627-CU-MC-CTL

Civil Prosecution by Code Enforcement Unit

June 5, 2007

Permits were not obtained by the owner of a 19 acre property where substantial development had occurred that was harming environmentally sensitive lands.

Settlement required the owner to properly develop the property and provide mitigation, or restore it to its previous condition.

People v. Alma & Rick Felan dba Hot Monkey Love

Case No. M019192

Criminal Prosecuted by DART Unit

June 2007

Owners of a local nightclub were prosecuted for violating a local noise ordinance after community residents complained about the public nuisance, which had been occurring for months on a regular basis. This was the first time the ordinance was used to prosecute the owners of a commercial establishment.

City of San Diego v. Kyoung Soo Lee, dba Fam Mart

Case No. GIC860260

Civil Litigation Prosecuted by DART Unit

May 2007

A settlement was reached with the owner of a local indoor swap meet known as Fam Mart that addressed the rampant sales of counterfeit and pirated goods, as well as the proliferation of gang-related activity and violence. The settlement required retention of professional security guards and the installation of surveillance cameras throughout the interior and exterior of their business operation. The settlement also required the defendant to pay the City \$150,000.

People v. International Knights Inc. dba Club Expose, et al.

Case No. 37-2007-00064960-CU-MC-CTL

Criminal Misdemeanor Prosecution by Code Enforcement Unit

May 16, 2007

Due to a "Redlight Abatement Action", a strip club on Miramar Road was permanently shutdown and the property owners enjoined from allowing prostitution activity at the premises.

People of the State of California & City of San Diego v. Westcoast Crip, et al.,

Case No. GIC864852

Civil Nuisance Abatement Action by DART Unit

May 3, 2006

The City obtained its first gang injunction against the West Coast Crip (WCC) criminal street gang and 47 of its gang members. The WCC injunction prohibited them from, among other provisions, associating with each other in public, prohibited them from being at designated target locations, thus reducing the public nuisance caused by these gang members' activity and gang violence. It also requires them to obtain employment, job training, education or any combination of these activities. Several gang defendants have been successfully prosecuted for violations of this injunction.