



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE: December 15, 2009

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JUDGE STRIKES “PRESIDENTIAL LEAVE” PENSION BENEFITS

San Diego, CA: A Superior Court judge has struck down so-called “presidential leave” retirement benefits on the basis that the San Diego City Council granted the benefits in violation of the City Charter. This is the first time pension benefits purportedly granted by the San Diego City Council have been struck down by a court.

In a lawsuit between the City of San Diego and the Police Officers Association (POA) filed earlier this year, Superior Court Judge Timothy Taylor found that the benefits were not legally granted because the City Council failed to comply with requirements of the San Diego City Charter. Although pension benefits are deemed “vested” rights protected by the California Constitution that cannot be unilaterally changed, the judge recited case law holding that no pension rights are granted in the first place where the City Council lacked authority:

“No contractual obligation may be enforced against a public agency unless it appears the agency was authorized by the constitution or statute to incur the obligation; a contract entered into by a governmental entity without the requisite constitutional or statutory authority is void and unenforceable.”

Judge Taylor stated that Charter procedures are designed to not only protect pension participants, but also the general public. He rejected the union’s argument that the benefits should nevertheless be enforced under the doctrine of equitable estoppel, because the claimants had relied upon these benefits in making retirement planning decisions:

“[T]he court holds that the need to protect the majority of the pension plan participants (and the public at large) from the failure of their own elected leaders to follow the city charter outstrips the need to recognize the reliance placed by the plaintiffs on those same leaders in making their retirement planning decisions.”

Judge Taylor’s decision is attached.

The decision on presidential leave directly affects a small number of people who were purportedly granted pension benefits that included their POA salary known as “presidential leave.” Other cases filed by former presidents of the unions remain pending. The principles applied by Judge Taylor, however, may have wider significance. “We have carefully picked our pension issues,” said City Attorney Jan Goldsmith. “This one is significant for the legal principles upheld by Judge Taylor.”

“We contend that benefits granted in violation of Charter requirements are not vested and not enforceable. This decision upholds that position. The contention was not raised in the original lawsuit challenging pension benefits. Although the City was unsuccessful in that lawsuit to date, these new issues arise out of Charter requirements, not conflict of interest claims.”

“Although helpful, this decision is not a silver bullet that allows the City to roll back vested pension rights. It allows us to carefully review individual benefits granted over the years and assess their legality with some direction as to judicial reasoning,” said Goldsmith.

The contention that benefits are void where they are granted without compliance with Charter procedural requirements was raised by the City Attorney’s office in June in connection with a legal opinion that DROP was never properly adopted. The City has since won court decisions holding that the City could change the salary and interest rate under DROP, denying POA’s application to prevent the City from changing the interest rate and ordering POA to negotiate over DROP. A cost study is currently underway to determine how to ensure DROP is cost neutral to the City.

“I continue to believe that it would be wise for the parties to resolve the pension conflicts through negotiation and compromise,” said Goldsmith. “Until that happens, we will continue to sort through the legal issues and address problems from the past.”

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