Litigation

Our public entity clients often become involved in various administrative hearings and civil litigation disputes, as both plaintiffs and defendants. This litigation encompasses the full range of a government's responsibilities -- compliance with the Brown Act, Public Records Act and conflict of interest laws, civil rights litigation, tort litigation, land use disputes, CEQA litigation, code enforcement, construction contract disputes, employee discharge and discrimination issues, inverse condemnation and eminent domain matters, among others.

The Firm's attorneys have both the experience and expertise in all aspects of federal and state civil, administrative, and code enforcement litigation practices and procedures to effectively, and successfully, represent public entities. We have represented public entity clients in administrative hearings, mediations, arbitrations, civil litigation and appeals involving all of the substantive areas of the law necessary to protect the interests of, and zealously defend, the communities we represent.

Because our public entity clients operate in a milieu where litigation is a "fact of life," we are in a unique position to bring our litigation expertise to bear in prosecuting or defending the communities which we serve. A representative listing of litigation our attorneys have handled follows:

- *Downtown Fresno Coalition v. City of Fresno*, Fresno Superior Court, Case No. 14CECG00890; Fifth Appellate District, Case No. F070845. Between 2014 and 2016, we represented the City of Fresno in the Fulton Mall CEQA litigation. This litigation challenged the environmental review done for the project that included a $16 Million federal grant the City of Fresno received to develop a downtown main street. Petitioners argued that the City improperly pre-committed to the project before completing the EIR and that the EIR was deficient in numerous respects. The City prevailed both in the trial court and Court of Appeal in that case and the EIR completed for the project was upheld in full. We handled the successful defense of this matter for the City of Fresno at both the trial court and Court of Appeal.
- *City of Banning v. Mary Ann Dureau et al.* (2013) (United States District Court Case No. EDCV12- 0043 BRO). A property owner did not properly secure her property, the site of a former auto repair business, and a homeless man turned over several drums of waste oil on the property which ran into the street and storm drain system. The City was obligated

ATTORNEYS

GINA K. CHUNG
GLEN E. TUCKER
STEPHEN R. ONSTOT
LONA N. LAYMON
JAMIE L. TRAXLER
ADRIAN R. GUERRA
COLIN J. TANNER
CHRISTOPHER F. NEUMEYER
WILLIAM W. WYNDER
JEFF M. MALAWY
NICHOLAS P. DWYER
ERIKA D. GREEN
SHANNON L. CHAFFIN
NICK PAPAJOHN
MICHELLE L. VILLARREAL
LAURA A. WALKER
ANTHONY R. TAYLOR
G. ROSS TRINDLE, III
ROY C. SANTOS
CHRISTY MARIE LOPEZ
JUNE S. AILIN
CHRISTINE M. CARSON
BRIAN WRIGHT-BUSHMAN
MATTHEW K. TOM
ALISON S. FLOWERS
MICHELLE E. SASSANO
BRADEN J. HOLLY
ANDREA OGUNTULA
D. DENNIS LA

to clean up the waste oil. The City then sued the property for the cost of clean-up pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). In a bench trial, the judge ruled the City was entitled to recover the reasonable cost of cleaning up the spill, over $ 575,000. The City defeated the property owner's counterclaims for inverse condemnation, equitable indemnity, declaratory relief, and contribution.

- *City of Carson v. City of La Mirada* (2012) (Second District Court of Appeal Case No. B235315. The appellate court affirmed an earlier ruling obtained by our attorneys on behalf of the City of Carson enforcing a judgment against the City of La Mirada and La Mirada Redevelopment Agency. The judgment resulted from still earlier litigation arising out of La Mirada Redevelopment Agency's 2000 agreement with Corporate Express providing financial assistance as an incentive for Corporate Express to abandon its facilities in the City of Carson and relocate to the City of La Mirada.
- *Millan v. City of Carson* (2010) (Los Angeles Superior Court Case No. TC021439). In this personal injury case, a railroad worker was struck by a privately-owned truck that collided with a train at a railroad crossing and ricocheted, pinning the railroad work between the truck and the train, causing his death. The City was named as a defendant due to an alleged dangerous condition of public property. The case was tried to a jury and the City was held 20% liable. In light of the facts of the case and the damages awarded, this was considered a very favorable outcome for the City.
- *Signal Hill Redevelopment Agency v. Adams, et al.* (2010) (Los Angeles Superior Court Case No. BC396930). This eminent domain action was filed to acquire a 4-acre site for a new police station. The challenges in this acquisition included badly fractionalized title due to the prior oil production history of the property, some 7,000 interests in a 4 acre parcel and a claim of adverse possession by a small group of property owners. Rather than risk the court's ruling on the adverse possession claim, the group claiming title by adverse possession chose to settle and the remaining property owners' interests were acquired by default judgment. The City obtained title to the site for a total cost of less than $1 million where the value, if the title were in a single owner, would have been substantially higher.
- *Signal Hill Redevelopment Agency v. Bartlow, et al.* (2010) (Various Los Angeles Superior Court Case Numbers). This group of eminent domain cases to acquire former oil field properties in the City of Signal Hill with significant contamination issues for redevelopment resulted in two jury trials. In one trial, our attorneys succeeded in having the testimony of an appraiser stricken, resulting in the case going to the jury on the basis of only one appraiser's testimony. While the jury verdict was subject to being reduced due to the jury's failure to follow certain jury instructions, the property owner chose to resolve the issue through settlement and waived the right to appeal. In the other jury trial, after considering all the evidence, the jury returned favorable verdicts. Overall, the City acquired some 25 acres at a price within of the condemnor's appraiser's testimony.
- *Correa v. City of Inglewood, et al.* (2008) (Second Appellate District Case No. B204205). Acting as litigation counsel for the City of Inglewood, our attorneys successfully defended the City against a fired employee terminated for "conduct unbecoming a police officer." The plaintiff had claimed that, in the interrogation leading up to his termination, his rights under the Public Safety Officers Procedural Bill of Rights Act were violated. His claims were rejected at both the trial and appellate levels.
- *United Rock v. City of Irwindale* (2008) (Los Angeles Superior Court Case No. KC051372). Mining company sued City to invalidate mining tax increase, to establish its vested rights, and for a declaration that the City's actions violated a prior settlement agreement. Litigation did not proceed past the demurrer stage and City was able to proceed with its tax and regulatory actions.

- *Carson Redevelopment Agency v. Padilla* (2006) 140 Cal. App. 4th 1323. We litigated this matter to void a tainted contract under Government Code § 1090, the State conflict-of-interest statute, and obtained an award of $850,000 plus costs from a developer who paid $75,000 to obtain a contract. This litigation resulted in a seminal published opinion interpreting Government Code § 1090.
- *Carson Coalition For Healthy Families v. City of Carson, et al.* (2007) (L.A. Superior Court Case No. BS102076 and Second Appellate District Case No. B194923). Our CEQA litigators successfully defeated a 2009 challenge, before the trial court and appellate court, alleging the City's project EIR failed to sufficiently analyze: (1) hazards and hazardous materials, (2) traffic, circulation and parking impacts, (3) air quality impacts, (4) noise impacts, and (5) alternatives to the Project.
- *Wilshire Ventures Corp., et al. v. San Fernando Redevelopment Agency* (2012) (Los Angeles Superior Court Case No. BC410145 and Second Appellate District Case Nos. B230916, B232924). Our litigators defeated a $1.1 million claim against the San Fernando Redevelopment Agency by establishing that the redevelopment agency had not breached an exclusive negotiation agreement by failing to complete preparation of a draft EIR or by deciding not to extend the agreement to allow more time for the draft EIR to be completed. We also obtained a substantial award of attorneys' fees.
- *Illingworth v. City of Cypress* (2003) (Fourth Appellate District Case No. G031280). The court reversed the trial court and held that the Anti-SLAPP statute was applicable to the free speech conduct of a Cypress employee. This decision resulted in Cypress being awarded nearly $60,000 in attorneys' fees and costs in its favor. Plaintiff's $2 million lawsuit against the City and its employee was also defeated in this litigation.
- *Nicolopulos v. City of Lawndale* (2001) 91 Cal. App. 4th 1221. The Court of Appeal upheld the City of Lawndale's removal of its elected City Clerk against the petitioner's procedural due process challenge.
- *Avalon Center Investment Company v. City of Carson* (2006) (Los Angeles Superior Court Case No. BS 087688, Court of Appeal Case No. B183893). An appellate decision upholding City's denial of a permit for continued use of an automotive fueling station against the claim that the City Council's denial was based upon the improper motive of protecting existing competition and denial violated petitioner's vested rights.
- *Craig Teter v. City of Newport Beach* (2003) 30 Cal. 4th 446. The California Supreme Court clarified that a person arrested for public intoxication is a prisoner for the purpose of Government Code Immunities and that there is no liability for damages sustained by a prisoner as a consequence of conditions that are common to all inmates and represent reasonable application of policy determinations by jail or prison authorities.
- *Ehrlich v. Culver City* (1996) 12 Cal. 4th 854. A seminal case in which the California Supreme Court upheld the authority of cities to impose public art programs and development conditions being challenged as unconstitutional.
- *Vela v. Superior Court* (1989) 208 Cal. App. 3d 141. A California appellate case that established the attorney-client privilege for police department shooting incident reports.
- *State of California v. City of Palm Springs.* The Attorney General sued to invalidate an agreement between Palm Springs and the Agua Caliente Tribe to sell the Tribe land on which a hotel-casino would be developed, based on state law prohibiting redevelopment agency assistance for gaming. The City prevailed at trial court and the matter was eventually settled.
- *County of Sacramento v. Florin Resources Conservation District.* Our attorneys represented the Water District, where the County of Sacramento was challenging the District's authority to issue bonds and certificates of participation in the amount

of $25,000,000. We obtained a favorable ruling for the District in the very early stages of the proceeding, dismissing with prejudice thirteen of the County's fourteen causes of action against the District, thereby enabling the District to proceed with the issuance of the bonds.

Mobilehome Park Litigation

Mobilehome parks in some of our client have been the focus of extensive litigation over both rent control issues and efforts to close the parks or convert them to ownership parks rather than rental properties subject to rent control. We have litigated extensively in this area, including high profile cases that have statewide and national implications, against very aggressive mobilehome park owners seeking to maximize profits at the expense of low income residents in disregard of state laws and local ordinances. We have a track record of consistent success in this area, both as counsel for parties to the case and as amicus curiae, as reflected in the following cases:

- *Carson Harbor Village, Ltd. v. City of Carson* (2015) 239 Cal.App.4th 56. In the culmination of a 13-year battle to protect the residents of the Carson Harbor Village mobilehome park from the elimination of local rent control that would result from the park owner's attempt to convert the park to condominium spaces, the Court of Appeal concluded the City of Carson acted lawfully in denying the conversion application based on its inconsistency with the Carson General Plan. Early in the case, the park owner's attorneys had succeeded in persuading the Court of Appeal that cities may apply only the minimal requirements of one state statute -- Government Code section 66427.5 - when considering whether to approve a mobilehome park conversion. Reversing its own prior ruling in the same case (at our urging), the Court of Appeal panel wrote: "we acknowledge that *we were wrong* . . . in *Carson Harbor I.* . . . Section 66427.5 [is] merely a 'preliminary step in the subdivision process in the context of a mobilehome park conversion . . . . Section 66427.5, subdivision (e), was [never] intended to eliminate the broader structure of the Subdivision Map Act vis-Ã -vis a tentative map and a final map, and the approval of the same.'"
- *Colony Cove Properties, LLC v. City of Carson* (2013) 220 Cal. App. 4th 840. In the first published appellate opinion to hold that a constitutional "fair return" on a rent-controlled investment is not necessarily a positive return, we successfully defended the Carson Mobilehome Park Rental Review Board's decision to grant a $36.74 rent increase when the park's owner had sought over $600.
- *El Dorado Palm Springs, Ltd. v. Rent Review Com.* (1991) 230 Cal. App. 3d 335. Our attorneys successfully represented the City of Palm Springs in a nearly 15-year battle with a mobilehome park owner over application of a rent control ordinance and numerous challenges to the City's administrative rulings. Some of these decisions resulted in appellate decisions in favor of the City.
- *Guggenheim v. City of Goleta,* (2010) (Ninth Circuit Court of Appeals Case No, 06-56306). Our attorneys participated in "landmark" litigation defending the authority of local municipalities to adopt and enforce rent stabilization laws. Acting as amicus counsel for the state-wide League of California Cities and California State Association of Counties, our attorneys defended the City of Goleta's rent control ordinance and its largely-senior citizen mobilehome park residents. An 11 judge en banc panel of the Ninth Circuit Court of Appeals, by a vote of 8 to 3, agreed with the arguments made in our brief that owners of existing rent controlled parks could not bring an after-acquired challenge to rent control laws as a "taking of

property without just compensation."

- *Colony Cove Properties, LLP v. City of Carson* (9th Cir. 2011) 640 F.3d. 948. The court unanimously rejected a $34 million suit based on a variety of "takings" and constitutional claims. Our attorneys successfully persuaded both the District Court and a unanimous three-judge panel of the Ninth Circuit Federal Court of Appeals that there was no wrong-doing on the part of our city client.
- *Goldstone v. County of Santa Cruz* (2012) (Sixth Appellate District Case No. H036273). In another important appeal, our attorneys acted as amicus counsel in support of the County of Santa Cruz in persuading the Court to adopt an interpretation of state law advocated on behalf of the communities of Carson and Chino. The Santa Cruz court applauded our brief, commenting "[w]e have received and considered [a brief filed] by the cities of Carson and Chino. We appreciate the cogent analyses presented and have addressed the principal arguments raised in those briefs within the discussion that follows."

Numerous favorable appellate decisions for the City of Carson in various challenges to the administrative rulings of its Mobilehome Park Rent Control Board:

- *Colony Cove Properties, LLC v. City of Carson* (2010) 187 Cal. App. 4th 1487.
- *Carson Harbor Village, Ltd. v. City of Carson*, 2nd Appellate District Case No. B211777 (March 30, 2010).
- *Carson Harbor Village, Ltd. v. City of Carson Mobilehome Park Rental Review Board*, LASC Case No. BS077148, Court of Appeal Case No. B180317, Supreme Court of California Case No. S139068).
- *Carson Harbor Village, Ltd. v. City of Carson Mobilehome Park Rental Review Board*, LASC Case No. BS077364, Court of Appeal Case No. B170146.
- *Carson Harbor Village, Ltd. v. City of Carson Mobilehome Park Rental Review Board*, LASC Case No. BS085137, Court of Appeal Case No. B181771.
- *Carson Estates v. City of Carson Mobilehome Park Rental Review Board*, LASC Case No. BS079860, Court of Appeal Case No. B171598.
- *Carson Gardens, LLC v. City of Carson Mobilehome Park Rental Review Board*, LASC Case No. BS072845, Court of Appeal Case No. B180308.

Medical Marijuana Dispensaries

When out-of-court methods to enforce regulation or ban of medical marijuana dispensaries have proven unsuccessful, we have used the courts to abate marijuana dispensaries and prosecute operators and uncooperative landlords to the full extent of the law. We have obtained court injunctions ordering dispensaries to close. We have successfully defended court challenges to administrative citations, and we have negotiated settlement payments to our city clients to resolve citations, including one payment in the six-figures. When dispensaries do not obey court-ordered injunctions, we work with law enforcement to make arrests, or we have obtained court sanctions and held contempt trials to punish such violations. We have successfully defended our city clients against over fifty (50) lawsuits brought by dispensaries or landlords. Not one plaintiff has ever succeeded in overturning a dispensary ban, regulation, or citation, and none of our clients has ever paid one dollar in damages or settlements.

Public Integrity

While we primarily represent cities and are supportive of municipal objectives, we do not hesitate to pursue claims that arise out of official mismanagement and public corruption.

Our firm has represented the City of Bell during the most trying time in its history. We were retained after criminal charges were brought against senior management officials and the city council had been recalled. We were tasked with assisting Bell in righting its position financially and setting a new course for a more prosperous future for the city and its residents. In that regard, we pursued malpractice claims against the city's former legal counsel and auditor, which were successfully settled to the city's financial benefits. We took steps through litigation and negotiations to curtail excessive retiree benefits. We successfully resolved an attempt to foreclose on the city's most valuable real estate asset and negotiated a transaction for the development and redevelopment of that property and adjacent properties. The city's financial recoveries and avoided costs as a result of our work have exceeded $10 million.

Our attorneys were also involved in defeating claims for indemnification for legal costs asserted by the city manager who was at the heart of the problems in Bell and persuaded the court of appeal that the State Attorney General had the authority to assert claims against that same city manager in seeking civil remedies on behalf of the city. In criminal proceedings against the former management employees and city council members, we worked closely with the district attorney's office to ensure appropriate restitution was included in the criminal sentences. Our experience in Bell has left us well-equipped to recognize and pursue public integrity issues through litigation, and, where appropriate, defend against such claims as well.