

National City Prevails in Lawsuit Testing Eminent Domain Powers

SAN DIEGO, CA (February 21, 2008) – On Friday, February 15, 2008, a San Diego Superior Court judge dismissed a lawsuit filed by a youth organization challenging the validity of National City’s eminent domain powers in *Community Youth Athletic Center v. National City’s Redevelopment Plan as adopted by ordinance 2007-2295 on July 17, 2007*. Judge William S. Cannon’s ruling cited the plaintiff’s failure to comply with statutory requirements for validation actions as the basis of his ruling.

“The plaintiffs challenged National City’s amended redevelopment plan. The court denied the challenge,” states Bruce Beach, a partner with Best Best & Krieger who represented National City in the lawsuit. “The city is looking forward to getting on with redevelopment of its downtown.”

In July 2007, the City of National City and National City Redevelopment Commission amended its redevelopment plan to extend the City’s eminent domain powers for ten years and to restrict the use of eminent domain so residential properties could not be acquired. The Community Youth Athletic Center (CYAC), a nonprofit boxing club which serves at risk youth, is situated on a parcel of land that could be affected by the amended plan if the property is acquired for redevelopment.

Attorneys for CYAC brought a lawsuit challenging the amendments and were required under law to publish a notice to all persons interested that they may contest the legality of the matter by filing a written answer. Notices were published in the *Union-Tribune* and the *La Opinion* newspapers, however, the date for filing a written answer published in the notices was wrong.

“The challenge to the amendments was a challenge to the blight findings of the redevelopment agency on technical issues,” states Beach. “To raise a challenge to an ordinance with a reverse validation action requires strict compliance with the law. The court found the jurisdictional requirements for the lawsuit had not been met.”

CYAC was represented by Richard Segal and C.J. Martin of Pillsbury Winthrop Shaw Pittman LLP and William Mellor and Dana Berliner of the Institute for Justice, a libertarian public interest law firm.

The Institute for Justice sponsored a community rally, organized a letter writing campaign and circulated news releases calling for the community to object to the amended redevelopment plan. Proponents of the June 2008 California ballot initiatives that would prevent the use of eminent domain for economic development purposes have spotlighted the CYAC situation as an example of abuse of eminent domain powers. The situation also gained national media attention.

“The fact of the matter is that there were no eminent domain proceedings underway for the property on which CYAC is located,” notes Beach. “While a challenge to possible amendments of the CYAC property was premature, the court never got to that issue because the court found a lack of jurisdiction under the validation law.”