



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

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CITY WINS DISMISSAL OF TRASH LAWSUIT

San Diego, CA: A group of homeowners associations that filed a class action lawsuit against the City of San Diego over its decision to cut off free **trash** pickup to roughly 14,200 San Diego households on private streets have dismissed their case with prejudice, meaning that it cannot be filed again. At the time of the dismissal, the City had a pending motion to have the court dismiss the case as a matter of law. In light of the plaintiffs' voluntary dismissal, the City Attorney's Office agreed, with City Council approval, to waive recovery of the City's costs in the lawsuit.

The lawsuit, *Mesa Village Homeowner's Association v. City of San Diego*, was filed against the City in June with much publicity. The lawsuit sought to overturn a decision to terminate free refuse collection for 102 private multi-family complexes on private streets. The City had been providing free trash pickup for these private developments. The issue was whether the City was legally obligated to continue trash service under the People's Ordinance, which requires that the City only provide refuse pick up to homes located on public streets. Plaintiffs argued that they were "grandfathered in" under decades old agreements.

The City argued that the People's Ordinance does not give free **trash** service to all residents. In fact, over 40 percent of City residents don't get **trash** service from the City, but have to pay for it them-selves by hiring private haulers. Plaintiffs households amount to about 10% of those residing on private streets. The other 90% pay for their own trash service. By removing the free service, the City contended, the plaintiffs were simply being treated the same as the other 90% of households on private streets and were not bound by any agreement to continue giving them special benefits.

Shortly after the case was filed, Plaintiff's application for a temporary restraining order and a subsequent motion for a preliminary injunction which sought to require the City to continue to pick up the trash of the 14,000 homes in the private developments for free were both denied. The Court determined that the Plaintiffs had not shown that they were likely to ultimately prevail on the merits. Additionally, at the time Plaintiffs agreed to dismiss their petition, the Court was considering a motion by the City to dismiss the case for failure to state a legal claim.

"Our office gave correct legal advice that was upheld by the court," said City Attorney Jan Goldsmith. "Whether to extend trash service to these homeowners was a policy decision for the City Council and Mayor, not a legal issue for the courts. This lawsuit was off-base on the law and should not have been filed."

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