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NEWS RELEASE

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COURT SUPPORTS CITY'S PLAN TO FILE VALIDATION LAWSUIT IN CONVENTION CENTER TAX CASE

San Diego, CA: A Superior Court judge has indicated support for the City of San Diego's plan to file a validation lawsuit regarding the Convention Center expansion tax vote before any taxes are collected (if the tax is approved).

Unite Here Local 30, the county's hospitality and tourism workers union, had sued the City, seeking to block the vote on a special tax to fund the Convention Center expansion contending that the Resolution setting forth the City's plan to hold a vote followed by a validation lawsuit violated the law.

Yesterday, Judge Gonzalo Curiel ruled in favor of the City, which had argued there was no need for the lawsuit since the City had in October announced plans to challenge the tax itself in court via the validation action if the tax passed. The judge has granted the petitioners 10 days to amend their complaint.

Curiel said that he disagreed with the union and said the City acted properly by calling for the validation action.

Curiel's ruling set forth five reasons for granting the City's request for demurrer:

1. Petitioners' writ fails to adequately establish what within the City Resolution offends the law;
2. The writ fails to show the City has not performed any mandatory duty – especially given the City's stated commitment to seek a validation action *before* the imposition of any special tax;
3. The writ is premature given no special tax will be imposed unless validated;
4. Petitioners have failed to adequately explain why a validation action is not the exclusive means to challenge the taxing plan and why a validation action does not provide an adequate legal remedy; and,
5. Petitioners have failed to explain why their writ is not moot in light of their recently filed reverse validation action.

The proposed tax plan is based largely upon a similar plan adopted by the City of San Jose and approved by a San Jose judge in a validation lawsuit. Other than San Jose's plan, it has not been used elsewhere.

"In light of the fact that this proposed plan is largely untested, our office has insisted that a validation lawsuit be filed and resolved by the court before any taxes are collected," said City Attorney Jan Goldsmith. "Judge Curiel's decision is consistent with our office's position. If the tax is approved by voters, the City will follow that path."

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