



# San Diego City Attorney Jan I. Goldsmith

## NEWS RELEASE

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### **Supreme Court leaves standing precedent setting San Diego decision on Retiree Health City Attorney: “San Diego’s biggest legal victory”**

**San Diego, CA:** The California Supreme Court has denied a petition seeking review of a Court of Appeal holding that the City of San Diego’s retiree health benefits offered to employees are not "vested" and may be changed as any other term and condition of employment. The Court of Appeal ordered its decision published, meaning this case is now citable as legal precedent on the issue of whether retiree health benefits are vested. (Court of Appeal decision attached). The decision is now final.

The decision is of statewide significance as it can be used as guidance for other cities and the State of California. According to a report from the State Controller, the retiree health benefit unfunded liability for the state is \$42.1 billion, nearly as much as the \$45.5 billion pension debt. That figure does not include the unfunded liability of local governments for retiree health benefits which is billions more. A discussion of retiree health benefit issues can be found at the website Calpensions: <http://calpensions.com/2013/12/02/retiree-health-bigger-budget-bite-than-pensions/>

In the case of San Diego, in 2011, following the City's success in federal court and shortly after the City's success in the state trial court, the City and its labor unions entered into an MOU that reduced benefits and achieved estimated savings exceeding \$700 million over 25 years while allowing for the City to negotiate further savings in the future.

A “Fact Sheet” from the Mayor’s office dated May 6, 2011 quoted current Mayor Kevin Faulconer who explained the significance of the legal victories won by the City Attorney’s at that point affirming that retiree health benefits are not vested for employees: *“This would not have been possible without the hard work of our City Attorney, Jan Goldsmith, and his recent court victory, which provided us the leverage we needed to get this deal done,”* Faulconer said.

The Court of Appeal and Supreme Court have now upheld that court victory. Had they held otherwise, the 2011 MOU could have been challenged and reversed.

In holding for the City, the Court of Appeal stated that retiree health benefits are not pension benefits that are constitutionally protected, but "are additional benefits that are provided at the option of the City" and the law "does not mandate that these benefits be included in the City's retirement system."

**“These series of court successes on retiree health amount to San Diego’s biggest legal victory,”** said City Attorney Jan Goldsmith. **“We have cleaned up a terrible financial mess caused by prior city councils granting benefits without paying for them. This City faced over a \$1 billion unfunded liability. People were wringing their hands. The labor unions were adamant and their lawyers argued forcibly and aggressively that the benefit was vested. We stood our ground and prevailed, helping our client and taxpayers save over \$700 million.”**

Goldsmith praised the attorneys who have been working on the issue for 4 years, particularly Deputy City Attorney Walter Chung, who Goldsmith called **“One of the finest appellate lawyers in the state.”**

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