



# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

**FOR IMMEDIATE RELEASE: November 20, 2015**

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### **Appeals Court Upholds Legality of Lease-Revenue Bonds** *Finds no merit in case filed by San Diegans for Open Government*

The City's use of lease-revenue bonds to finance public projects has once again been upheld by the courts, this time by the Fourth District Court of Appeal.

A unanimous court found no merit in the argument of San Diegans for Open Government (SDFOG) and attorney Cory Briggs that the widely used financing method was unconstitutional.

The court agreed with the City that the 1996 California Supreme Court case *City of San Diego v. Rider* had already covered the identical issues. For the same reason, SDFOG lost this case in Superior Court in November 2014.

The Court of Appeal acted in unusually quick fashion after the City Attorney's Office filed a motion to expedite the case. The SDFOG lawsuit was an impediment to financing much-needed public infrastructure projects – including fire stations, libraries and storm drains – primarily in older and underserved communities.

**“As the appellate court noted, the issues in this case were settled nearly 20 years ago in *Rider*,”** City Attorney Jan Goldsmith said. **“Whether or not you like them, lease-revenue bonds are a legal way for government to pay for public infrastructure projects. This decision clears the way for these long-awaited neighborhood improvements to move forward.”**

In both this case and *Rider*, plaintiffs argued that the use of lease-revenue bonds violated a constitutional requirement that cities cannot take on multi-year debt without two-thirds voter approval.

In both cases, courts found that lease-revenue bonds issued by a third party – in San Diego's case, by the Public Facilities Financing Authority – are not subject to the requirement of a public vote.

“The City presumably uses the Financing Authority to avoid the two-thirds vote requirement, but doing so is legal,” the Court of Appeal wrote, echoing the *Rider* decision.

SDFOG sought to distinguish *Rider* from its own case by pointing out changes that have occurred since the *Rider* decision, such as changes in the Financing Authority's members.

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However, the Court of Appeal said the distinctions cited by SDFOG were “immaterial” and not “well taken.”

SDFOG additionally pointed the Court to new accounting guidelines that recommend the City include Financing Authority debt on City financial reports. SDFOG argued that the new guidelines amount to a change the City’s legal relationship with the Financing Authority and will impact the City’s credit rating.

The Court of Appeal found no evidence to support that theory. It wrote that following recommended accounting guidelines “does not override California law or delineate the legal rights and responsibilities” of the City, and that SDFOG “predicts economic consequences to the City that do not pertain to the issue under review...”

The ruling was certified for publication, meaning it is precedent for all California courts.

Briggs and SDFOG lost a nearly identical suit against the City in January. That case was not decided on its merits, however, but was dismissed with prejudice because it was incorrectly served.

The City was represented by Chief Deputy City Attorney Meghan Ashley Wharton and Deputy City Attorney Laura M. DePoister.

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