



# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

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## Supreme Court Won't Hear SDOG Appeal

*Long-running assault on lease-revenue bonds ends not with a bang but a whimper*

The California Supreme Court today declined to hear San Diegans for Open Government's final attempt to prevent the City of San Diego from using lease-revenue bonds to improve streets and build neighborhood infrastructure such as fire stations, lifeguard towers and libraries.

The decision leaves intact lower court rulings that upheld the constitutionality of the bond financing mechanism, which has been used by local governments throughout California since it was ruled constitutional in 1998.

SDOG and lawyer Cory Briggs had sought to invalidate lease-revenue bonds to finance library projects in Skyline, Mission Hills/Hillcrest, San Ysidro and San Carlos; fire station projects in City Heights, Hillcrest and Skyline; sea wall repairs in Mission Beach, and other neighborhood projects.

The bonds were delayed by the lawsuit, but eventually issued after a lower court and appellate court rejected SDOG's arguments. A parallel action to prevent the City from refinancing of Petco Park bonds was dismissed but remains pending on appeal.

**"The Supreme Court has once again affirmed San Diego's ability to use lease-revenue bonds to plan, build and repair public infrastructure that is essential to our quality of life,"** City Attorney Jan Goldsmith said. **"Had SDOG succeeded in this costly and meritless action, our children would have fewer libraries, our firefighters would be stationed farther from the neighborhoods they serve, and our streets would be repaired at a much slower rate."**

For Briggs, the Supreme Court's action represents a crowning defeat in what has been a long losing streak.

Briggs had previously lost a case that similarly challenged the validity of lease-revenue bonds issued by the City of Anaheim (*Coalition of Anaheim Taxpayers, etc. v. City of Anaheim*) but that case was not appealed by his client Inland Oversight Committee.

Rather, Briggs focused his efforts on San Diego.

A timeline follows:

- In 2014, the City Council approved \$120 million in bond-funded capital improvement projects in two actions known as Bonds A and Bonds B. Briggs challenged the actions, arguing that cities cannot take on multi-year debt without two-thirds voter approval.
- In November 2014, Superior Court Judge John S. Meyers heard Briggs' challenge of the Bonds A actions and upheld the constitutionality of lease-revenue bonds. Briggs appealed.
- In January 2015, Superior Court Judge Ronald L. Styn dismissed with prejudice Briggs' challenge of the Bonds B actions because the case was not correctly served. Briggs asked the court to set aside the dismissal, arguing SDOG should not be harmed by his negligence.
- Two weeks later, also in January 2015, Judge Styn upheld his earlier decision and again dismissed the Bonds B case with prejudice, meaning it cannot be refiled. Briggs appealed.
- In March 2015, the City Council voted to refinance its bond debt on Petco Park so it could take advantage of lower interest rates and save approximately \$22 million for taxpayers. Briggs sued, arguing that the refinancing of an existing debt (even one already approved by voters) required voter approval.
- In November 2015, a unanimous Fourth District Court of Appeal, after considering Briggs' appeal of the Bonds A case, upheld the constitutionality of lease-revenue bonds. Briggs appealed.
- In December 2015, Superior Court Judge Joan Lewis entered judgment in favor of the City on SDOG's challenge to the Petco Park bonds. After SDOG agreed that the constitutional claims in the case would be governed by today's Supreme Court decision, the Court ruled that SDOG lacked standing to pursue its remaining legal challenge to the Petco Park bond refinancing. The delay in initiating the refinancing cost the City between \$630,000 and \$770,000 in savings. Briggs' appeal of the standing ruling is pending on appeal.
- Today the Supreme Court declined to hear Briggs' Bonds A appeal. The Court's decision makes it highly unlikely that it would hear additional Briggs appeals on Bonds B or the Petco Park bonds.

The cases were argued for the City by Chief Deputy City Attorney Meghan Ashley Wharton.

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