

Legal Briefs

News You Can Use from the City of Oakland Office of the City Attorney

Legal Briefs is a series of essays by City Attorney John Russo to update the community on key projects, major initiatives and important legal developments in the Office of the City Attorney.

November 2003

Volume 3, Number 5

GOOD NEWS FOR OAKLAND

Bad News for Predatory Lenders and Owners of Blighted Motels

We've had a busy and productive summer and fall in the Office of the City Attorney. This issue of *Legal Briefs* highlights recent examples of our commitment to practice "law in service of the public."

Landmark Victory to End Predatory Lending

In September the Office of the City Attorney won an important victory in its legal battle to protect homeowners from unethical mortgage lending practices. In a landmark decision that will impact cities throughout the nation, the California Court of Appeals upheld the City of Oakland's anti-predatory lending ordinance which prohibits abusive lending terms and practices, particularly high-cost home loans that charge exorbitant interest rates.

Following passage of the ordinance two years ago, a trade organization for sub-prime lenders sued the city, contending that the ordinance was preempted by state law. The Court of Appeals threw out this challenge, making Oakland the first city in the nation to prevail against the predatory lending industry, which has challenged similar ordinances in cities across the country, including New York, Minneapolis, Cleveland, Dayton, Toledo and Los Angeles.

Predatory lending is an unethical and malicious tactic that targets minorities and the elderly. These unscrupulous lenders are now on notice that Oakland will not tolerate the gouging of consumers. City Attorney John Russo said he applauds the leadership of the Oakland City Council for passing this cutting-edge ordinance and using their legislative authority to preserve justice and fairness for all members of our community.

Battle Against Blight

Hotel & Motel Association of Oakland v. City of Oakland

There is an undeniable correlation between poorly maintained hotels/motels and the proliferation of crime, public nuisances and blight. In 1999 the City Council enacted twin ordinances to combat this problem. The first ordinance established operating standards for hotels and motels regulating housekeeping, property security, interior and exterior conditions, and prevention of criminal and nuisance activity. The second ordinance

reclassified all hotels/motels that had “legal nonconforming use” status as “deemed approved” and required them to comply with the new performance standards. Failure to comply could result in revocation of their “deemed approved” status and their permission to operate in the City.

The Hotel & Motel Association of Oakland sued the City of Oakland in Federal Court alleging that the ordinances were unconstitutional. The Association lost their case in Federal District Court and appealed to the Ninth Circuit U.S. Court of Appeals.

In September, the Court of Appeals upheld the constitutionality of Oakland’s hotel/motel ordinances and dismissed the case, affirming that “the City documented the problems, undertook various approaches and efforts to abate the illegal activity and unsanitary conditions, and ultimately concluded that the [ordinances] were in the ‘best interest’ of the community. . . . The City also documented safety, security, health, and other hazards and, notably, concluded that ‘there is a correlation between high levels of drug and prostitution activity and the existence of substandard and public nuisance conditions at the problem properties.’” The Office of the City Attorney used the power of these hotel/motel ordinances to effectively shut down the infamous Hillcrest Hotel in the Dimond District earlier this year, described below.

Hillcrest Motel

Neighbors of this long-standing nuisance property suffered for over a decade from severe criminal and nuisance activity at the hotel, including fires, filth, noise, drug dealing, prostitution, violent assaults and child abuse. Armed with ample evidence and bolstered by the testimony of more 18 neighbors, our code enforcement and Neighborhood Law Corps lawyers convinced an administrative hearing officer to impose significant restrictions on the property to address chronic and egregious violations. As a result, the motel owner decided to sell the property rather than comply with the conditions, ridding the neighborhood once and for all of this grievous blight.

2nd Annual Community Report Card Available

As part of our ongoing effort to provide “transparent” information about the operation of this office, we recently released our 2nd Annual Community Report Card for Fiscal Year 2002-03.

As Oakland residents and business owners, you are essentially the “shareholders” of this municipal corporation called the City of Oakland, and like any corporate shareholder, you are entitled to know how your taxpayer dollars are being spent. The Community Report Card presents the cost to conduct the City’s legal business, strategies to contain those costs, the amount paid to resolve claims and lawsuits, and highlights of significant community initiatives, legislation and litigation that illustrate our commitment to “law in service of the public.”

The Community Report Card is available online at:

http://www.oaklandcityattorney.org/PDFS/OCA_REPORT_CARD.03.PDF

or by calling (510) 238-3601.