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The Good, The Bad & The Excellent

Recent updates on key lawsuits that impact Oakland

Bad News for ‘ Good News’ Employee Association

On February 15th United States District Court Chief Judge Vaughn Walker dismissed the final cause of action in a lawsuit filed by the Good News Employee Association (GNEA) against City officials. Judge Vaughn found that the “plaintiff’s First Amendment rights were not abridged”.

Filed in July 2003, the GNEA lawsuit attacked the City’s policy that provides protection against harassment and discrimination based on race, gender, sexual orientation, national origin, and religion. The lawsuit contended that the City’s policy was unconstitutionally overbroad and vague, that the defendants “promote homosexuality and its views on religion, and openly denounce Christian views which have been doctrine for thousands of years” and have “shown an unlawful preference for human secularism and homosexual world views.”

The case stems from the fact that GNEA posted a flyer on an employee bulletin board which was removed by the City in accordance with its anti-discrimination, non-harassment policy. Entitled “Preserve Our Workplace with Integrity,” the flyer read, “Good News Employee Association is a forum for people of Faith to express their views on the contemporary issues of the day...with respect for the Natural Family, Marriage and Family Values.” The flyer, which was posted near a lesbian employee’s workspace, was in response to an e-mail sent to City employees about the creation of a new gay and lesbian employees’ association.

After receiving a complaint about the flyer, a supervisor removed it and distributed a copy of the City’s anti-discrimination policy. The court agreed the City acted correctly bringing the lawsuit to an end.

“The City of Oakland will tolerate no form of workplace harassment, whether it is based on sexual orientation, religion, gender, race, age or national origin, and we will fight vigorously to defend the policies and practices which protect employees from any form of discrimination,” said City Attorney John Russo. “We are extremely gratified that the United States District Court recognized our right to maintain a productive work environment.”

California Supreme Court Favors State Law – Pre-empts Oakland

On January 31st this year, in a split 4-3 decision issued by the California Supreme Court, Oakland’s anti-predatory lending ordinance was deemed “preempted” by state law.

Reversing a decision by the California Court of Appeal, four of the California Supreme Court justices argued that a state anti-predatory lending law superceded local authority to regulate predatory lending. The state law, enacted shortly before Oakland's anti-predatory lending ordinance was unanimously passed by the City Council in October 2001, offers minimum protections for "house rich and cash poor," homeowners who are targets for predatory lending practices.

Unlike state law, Oakland's predatory lending ordinance required borrower counseling for high-cost home loans, prohibited pre-payment penalties for such loans, and made purchasers of high-cost home loans responsible for predatory lending practices. The state law does not provide these same consumer protections.

On February 15th, the Oakland City Council unanimously adopted a resolution calling for the Legislature either to adopt stronger statewide borrower protections against predatory lending in home mortgage lending, or alternatively to authorize local communities with severe predatory lending problems to adopt regulations to address local conditions and protect local interests. The City Council, the City Attorney's Office and a coalition of consumer right's organizations have joined together to ensure the State Legislature assumes leadership in strengthening the state law.

Kaiser Business Tax Victory

After 4 years of vigorous litigation, the City of Oakland prevailed in a case where Kaiser Aluminum and Chemical sought a refund of business license taxes going back to 1984. They claimed that the City's tax on commercial landlords violated the Commerce Clause of the United States Constitution by unfairly placing heavier tax burdens on out-of-city landlords.

The plaintiff's attorney had essentially established a cottage industry suing municipalities throughout the state on this issue. This was his first defeat. While the appeal was pending, he pressured the City to settle the case predicting the City would pay upwards of \$12 million judgment.

The Appellate Court's rejection of Kaiser's claim was absolute and unequivocal. The court found that the City's tax ordinance does not place an unconstitutional burden on intercity commerce and is not discriminatory because intercity landlords pay the same tax as landlords with an administrative headquarters in the City.

The Supreme Court of California's denial of Kaiser's petition for review confirms the City's victory in this case and ends the matter thereby saving the City tens of millions of dollars each year.