



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. **R 19-0062**
MAR 05 2019

REPORT RE:

**CALIFORNIA INDEPENDENT PETROLEUM ASSOC. v. CITY OF LOS ANGELES
AND YOUTH FOR ENVIRONMENTAL JUSTICE, ET AL.
SECOND DISTRICT COURT OF APPEAL, DIV. 5 CASE NO. B282822**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 16-1027

Honorable Members:

This report summarizes the City's successful defense in the California Court of Appeal in a lawsuit brought by the California Independent Petroleum Association (CIPA). The Court of Appeal ruled that CIPA's lawsuit improperly targeted protected speech by attacking a settlement agreement entered into between the City and non-profit environmental groups (Nonprofits) in a related case, *Youth for Environmental Justice, et al., v. City of Los Angeles, et al., LASC Case No. BC600373*. The Court of Appeal also upheld a Zoning Administrator memorandum, ZA Memo 133, establishing standardized procedures for processing future discretionary oil drilling applications, including procedures beneficial to surrounding communities, such as expanded public notice and in-depth review pursuant to the California Environmental Quality Act (CEQA).

The City's successful defense of this lawsuit means communities located near oil drilling activity will have greater participation and protection prior to the City's consideration of oil drilling activities.

Youth for Environmental Justice Litigation

In November 2015, several Nonprofits sued the City, alleging the City had an illegal “pattern and practice” of failing to comply with CEQA and failing to provide notice or hearings when considering discretionary applications for oil drilling activities under Los Angeles Municipal Code (LAMC) §13.01-H and I. On September 19, 2016, the City’s Chief Zoning Administrator issued ZA Memo 133. This policy memorandum established a revised set of standardized procedures for the acceptance and processing of future discretionary applications for oil drilling approvals, including expanded public notice to 1,500 feet and in-depth analysis of environmental effects of oil drilling activity.

Satisfied that the City had addressed their concerns by issuing ZA Memo 133, the Nonprofits agreed to dismiss their lawsuit in exchange for the City’s payment of attorneys’ fees (Settlement Agreement). The City Council approved the Settlement Agreement on September 28, 2016. (Council File 16-1027)

CIPA Litigation

Just prior to the City Council’s approval of the Settlement Agreement, CIPA filed a lawsuit challenging the anticipated Settlement Agreement, claiming it violated CIPA’s due process rights and deprived CIPA of its right to a trial on the merits of the Nonprofits’ lawsuit. Eventually, CIPA also challenged the issuance of ZA Memo 133.

The City and the Nonprofits each brought a motion to dismiss CIPA’s lawsuit under the State’s anti-SLAPP law¹, on the grounds the lawsuit impermissibly attacked protected speech activity and neither CIPA nor its members had a protectable property interest that would be impacted by ZA Memo 133. A protectable property interest is a threshold requirement to establishment of a due process claim. The trial court issued an order denying both motions to dismiss.

The City and Nonprofits appealed the order. On February 15, 2019, the Second District Court of Appeal, ruling for the City and the Nonprofits, overturned the trial court’s order, thereby dismissing CIPA’s lawsuit against the City and Nonprofits in its entirety. The Court found that CIPA’s lawsuit overwhelmingly targeted protected speech activity. Additionally, the Court of Appeal upheld the City’s issuance of ZA Memo 133, finding that CIPA could not establish that the Memo infringed on any protected property rights recognized under the California Constitution.

ZA Memo 133 is now the standard by which new oil drilling activities in the City of Los Angeles will be processed and evaluated.

¹ SLAPP stands for Strategic Lawsuits Against Public Policy.

The City is Entitled to Attorneys' Fees

The Court of Appeal ordered the trial court to enter judgment in favor of the City and Nonprofits, which likely will occur in the next four months. As the successful party on an anti-SLAPP motion, the City is entitled to an award of reasonable attorneys' fees. This Office will bring a fee motion once judgment has been entered in the City's favor.

If you have any questions regarding this matter, please contact Deputy City Attorney Jennifer K. Tobkin at (213) 978-8244.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:JKT:lc