

39



# CITY OF SACRAMENTO

CITY MANAGER'S OFFICE  
**RECEIVED**  
AUG 28 1980

JAMES P. JACKSON  
CITY ATTORNEY  
THEODORE H. KOBEY, JR.  
ASSISTANT CITY ATTORNEY  
LELIAND J. SAVAGE  
DAVID BENJAMIN  
SAM JACKSON  
WILLIAM P. CARNAZZO  
SABINA ANN GILBERT  
STEPHEN B. NOCITA  
DEPUTY CITY ATTORNEYS

DEPARTMENT OF LAW  
812 TENTH ST. SACRAMENTO, CALIF. 95814  
SUITE 201 TELEPHONE (916) 449-5346

August 28, 1980

**APPROVED**  
BY THE CITY COUNCIL

City Council  
City Hall  
Sacramento, California

SEP 2 1980

OFFICE OF THE  
CITY CLERK

RE: Amicus Curiae Participation in San Diego Gas  
and Electric vs. City of San Diego

Members in Session:

SUMMARY

The United States Supreme Court has granted a hearing in the case of San Diego Gas and Electric vs. City of San Diego. We recommend that the City of Sacramento join this case as amicus curiae. The amicus curiae brief is being prepared by the City of San Jose. There would be no cost to the City of Sacramento.

BACKGROUND INFORMATION

The case of San Diego Gas and Electric vs. City of San Diego involves a claim for inverse condemnation. The claim is based upon the downzoning of property by San Diego from industrial to agricultural and the placement of such property in the open space element of the general plan. The jury in the San Diego Gas and Electric case awarded the plaintiff the sum of approximately \$3,170,000, plus interest and costs. The Court of Appeal upheld the trial court's decision, but the California Supreme Court vacated the opinion by granting a hearing in the case in July, 1978. In 1979, as a result of the California Supreme Court decision in the case of Agins vs. City of Tiburon, it appeared that the plaintiff in the SDG&E case had no cause of action for damages. The reason for this is that in the Agins case, the Supreme Court said the remedy in inverse condemnation cases was limited to declaratory relief or mandamus to invalidate excessive governmental regulation. The court held that no damages could be paid in inverse condemnation cases. However, the U.S. Supreme Court subsequently granted a hearing in the Agins case and issued its opinion in the case in June, 1980. The U. S. Supreme Court left open the question of recovery of damages by property owners. The U.S. Supreme Court thereafter granted a hearing in the SDG&E case, leading to speculation that the Court may wish to use this case as a vehicle to further define remedies,

City Council  
Page Two  
August 28, 1980

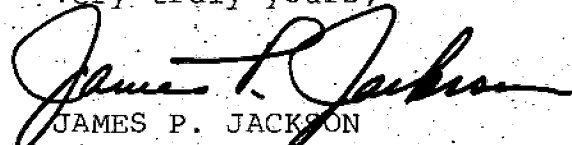
including damages, available to property owners in inverse condemnation cases. Needless to say, we are concerned because SDG&E could have a bearing on our pending cases of Webber and Waller vs City of Sacramento, Furey vs. City of Sacramento, and North Sacramento Land Co. vs. City of Sacramento. These cases all involve inverse condemnation causes of action and large claims for damages.

The City of San Jose is preparing an amicus curiae brief in support of the City of San Diego in the SDG&E case. Sacramento can join this brief at no cost.

RECOMMENDATION

We recommend that Sacramento be authorized to join the amicus curiae brief being prepared by San Jose in the case of San Diego Gas and Electric vs. City of San Diego.

Very truly yours,

  
JAMES P. JACKSON  
City Attorney

JPJ:KMF

RECOMMENDATION APPROVED:

  
City Manager

