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**Office of
The City Attorney
City of San Diego**

DATE: March 14, 2014
TO: Honorable Council President and Councilmembers
FROM: City Attorney Jan Goldsmith
SUBJECT: Cory Briggs Matters

Per the request of council, here are Cory Briggs cases divided by 1) cases in favor of the City 2) cases in favor of Cory Briggs 3) cases that have settled, and 4) cases that are pending.

1. CASES IN FAVOR OF THE CITY (17)

1. GIC 871259 (SDSC) D054062 (4th Dist Appeals) - *Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County (CREED 2) v. City of San Diego - 4165 Mississippi Street LLC* - City Prevailed/Affirmed on appeal - Petition for writ of mandate action which challenges over 100 instances where the City approved the use of exemptions to the California Environmental Quality Act (CEQA) for condominium conversion projects.

2. GIC 88044 (SDSC) D055699 (4th District COA) - *San Diego Navy Broadway Complex Coalition v. City of San Diego; Centre City Development Corporation (CCDC); RPI Manchester Pacific Gateway, LLC; United States of America* - Writ Denied - Writ Denied/Affirmed on Appeal - CEQA challenge to Manchester Navy Broadway Complex permits.

3. 37-2008-00078171 - *Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County (CREED 4) v. City of San Diego* - City Prevailed/Affirmed on appeal - Petition for writ of mandate challenging use of CEQA exemption for several condominium conversion projects.

4. 37-2008-00093830-CU-TT-CTL - *Citizens for Responsible Equitable Environmental Development; Affordable Housing Coalition of San Diego County (CREED 5) v. City of San Diego; RPI Costa Verde North Village, LLC; Hunsaker & Associates San Diego, LLC; Costa Verde Developers, LLC; Ohio 4611, LP; Matt Browar; Sterling Land Services, Inc.; Casoleil LP; Walter T. Schwerin; R & V Management Corp; Saxony Villas LP; Margaret Brown; DGB Survey and Mapping Inc.; Southern Seven LLC; Bruce McKillican; Nancy Browar; M.S. Browar Family Trust; Donald Scott Peters; Matthew S. Browar* - Voluntary

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dismissal/appeal dismissed for lack of jurisdiction - Petition for writ of mandate challenging use of CEQA exemption for several condominium conversion projects.

5. 37-2008-00093831-CU-TT-CTL - *Chollas Restoration, Enhancement and Conservancy Community Development Corporation, Inc. v. City of San Diego* - Writ granted in part/court determined City was prevailing party/affirmed on appeal - CEQA challenge to Wightman Street Neighborhood Park.

6. 37-2008-00095903 - CU-TT-CTL D057423 (4th District COA) *La Jolla Villiage Residents Association, Inc.; No Third Story, Inc. v. City of San Diego, City Council of the City of San Diego, Mark Lyon and Associates, RK Development Parthers, Michael Krambs* - Dismissed: failure to prosecute - Writ Challenging Approval of 3-Story Mixed Use Retail & Condo

7. 37-2009-00083140-CU-TT-CTL - *Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County (CREED 6) v. City of San Diego* - Voluntary dismissal/appeal dismissed for lack of jurisdiction - Petition for writ of mandate challenging use of CEQA exemption for several condominium conversion projects.

8. 37-2009-00085307-CU-MC-CTL - *Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County (CREED 7) v. City of San Diego, Pardee Homes, Project Design Consultants* - City Prevailed/Affirmed on appeal - CEQA challenge to approval of permits for residential development in Otay Mesa.

9. 37-2009-00092798-CU-TT-CTL - *Citizens for Responsible Equitable Environmental Development (CREED) v. City of San Diego, Black Mountain Ranch LLC* - Dismissed by petitioner for waiver of costs - CEQA challenge to permits for Black Mountain Ranch development project

10. 37-2010-00096694-CU-MC-CTL - *FreePB.org v. City of San Diego* - TRO denied. Case dismissed without prejudice after City filed demurrer. Challenge to City's denial of Park Use/Special Event Permits for "Leisure Olympics"

11. USDC 11cv2192 JAH (JMA) - *FreePB.org v. City of San Diego* - Dismissed without prejudice after City filed motion to dismiss. Challenges City's "summer moratorium" on Park Use and Special Events permits in certain busy parks.

12. USDC 12cv0044 MMA (MDD) - *FreePB.org v. City of San Diego* - City prevailed on motion to dismiss Challenging SDMC "summer moratorium" on certain Park Use and Special Events Permits, and City's denial of permits for FreePB.org's event.

13. 37-2012-00091567-CU-MC-CTL - *Creed-21 (VIA RIALTO-PRA) v. City of San Diego* - Dismissed by plaintiff - PRA Re: Via Rialto Storm Drain project.

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14. 37-2012-00103135-CU-TT-CTL - *Chollas Restoration, Enhancement and Conservancy Community Development Corporation, Inc; San Diegans for Open Government (SDOG) v. City of San Diego* - Judgment in City's favor after writ trial, Judgments for Costs \$1999.06 CEQA Writ challenging the approval of a childrens' park.

15. 37-2012-00103136 - *San Diegans for Open Government (PBID/MAD-13) v. City of San Diego; County of San Diego* - Dismissed by SDOG. Alleges PBID and MAD assessments are illegal taxes and seeks injunctive relief.

16. 37-2012-00088065-CU-MC-CTL - *San Diegans for Open Government (TMD) v. City of San Diego; All Persons Interested in the Matter of the Renewal of the San Diego Tourism Marketing District, the Levying of Assessments upon the Assessed Businesses For A Period Of The Thirty-Nine and One-Half Years, And The Prescribing Of A Method For Collection Of Assessments* - Extraordinary writ to 4th Dist Ct of Appeal pending re: court's ruling on third demurrer - SDOG claims the City invalidly formed the TMD and claims the TMD assessments are illegal taxes under Proposition 26.

17. 37-2013-00042425-CU-TT-CTL - *San Diegans for Open Government (Bahia) v. City of San Diego; RPI BH Partnership, LP* - Judgment for City on CEQA portion. No trial yet set for other causes of action. Challenge to a lease related to Bahia Resort property. Alleges violations of Charter, SDMC, CEQA, and Brown Act.

2. CASES IN FAVOR OF BRIGGS (4)

1. GIC 876017 - *Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County (CREED 3) v. City of San Diego* - Writ Granted - Court ruled that the City failed to provide a required appeal hearing on three projects.

2. 37-2011-00085693-CU-TT-CTL - *Creed 21(CALUMET) v. City of San Diego; RPI Calumet Real Estate Holdings, LLC* - CREED prevailed on writ; settlement; no writ issued. - Challenge to the City's use of CEQA Emergency exemption for the reconstruction of a private home in La Jolla; Court found City mis-used the emergency exemption; property owner settled with CREED for \$60,000; City dismissed for waiver of costs.

3. 37-2011-00101234-CU-TT-CTL - *San Diegans for Open Government (Tijuana River Valley) v. City of San Diego; CA Attorney General Kamala D. Harris* - Writ Granted.

4. 37-2013-00044155-CU-TT-CTL - *San Diegans for Open Government (UTC Signs) v. City of San Diego; RPI UTC Venture, LLC; Westfield, LLC (Robin Munro Madaffer)* - writ granted.

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3. **CASES THAT HAVE SETTLED (7)**

1. 37-2009-00094404-CU-PO-CTL - *David Egger v. City of San Diego* - Settled - Property Damage from Flooding to plaintiff's property in Tijuana River Valley. Plaintiff began case in Pro Per. Briggs appeared sometime between the Second and Third Amended Complaints.

2. 37-2009-00098375 - *San Diegans for Open Government (SDOG 1 - TJ River CEQA Emergency Exemption) v. City of San Diego* - Settled - Challenge to CEQA Emergency exemption for maintenance work in Tijuana River Valley.

3. 37-2010-00103095 - *San Diegans for Open Government (SDOG 2 - TJ River CEQA Emergency Exemption) v. City of San Diego* - Settled - Challenge to CEQA Emergency exemption for permits for maintenance in Tijuana River Valley.

4. 37-2011-0091513-CU-JR-CTL - *CREED-21 v. City of San Diego* - Settled - CEQA Challenge to Florida Canyon Storm Drain project

5. 37-2011-00099078-CL-BC-CTL - *Center for Social Advocacy, Inc. v. City of San Diego* - Settled - alleges City entered into CDBG with Center for Social Advocacy (CSA) for to investigate complaints re: "fair-housing services."

6. 37-2011-00101571-CU-TT-CTL - *San Diegans for Open Government (SDOG); Coastal Environmental Rights Foundation (CERF) (Master Storm Water Program) v. City of San Diego* - Settled - CEQA challenge to City's Master Storm Water Master Maintenance Plan.

7. 37-2012-00091341-CU-TT-CTL - *CREED-21 (Otay); San Diegans for Open Government (SDOG); and Citizens For Responsible Equitable Environmental Development v. City of San Diego; RPI Otay-Tijuana Venture, LLC* - Settled - CEQA challenge to EIR and Permits for Otay-Tijuana Cross-Border Facility. It appears Briggs Settled with RPI/Developer.

4. **PENDING MATTERS (15)**

1. 37-2012-00095729-CU-MC-CTL - *Coalition for Save & Healthy Economic Progress v. City of San Diego; RPI WalMart Stores, Inc.; Imperial Market Investors, LLC; Steve Julius Construction, Inc* - Case consolidated with 37-2012-00096168-CU-MT-CTL - Injunction to stop demolition and construction. Petitioners brought a CEQA challenge alleging the City had failed to perform environmental review, even though the permits in question were ministerial and the statute of limitations had passed. The Court granted declaratory judgment to Petitioners, finding City should have performed CEQA, but declined to issue a Writ because the building was complete. Currently on appeal.

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2. 37-2012-00094831-CU-MC-CTL (Lead Case) 37-2012-0097148-CU-MC-CTL (SDOG/Briggs) 37-2012-00100333 v. *City of San Diego All Persons Interested re Convention Center Facilities (SDOG joined as a Defendant)* - On Appeal, judgment for City after Trial Convention Center Expansion Validation - Three cases Consolidated: 37-2012-0094831 (LEAD CASE); 7-2012-00097148 (SDOG/Briggs); and 37-2012-00100333 - City prevailed at trial - Briggs appealed - Hearing not set.

3. 37-2010-00102574-CU-TT-CTL - *Coastal Environmental Rights Foundation (CERF-2) v. City of San Diego* - Settlement Negotiations Ongoing. Challenge to City's pattern and practice of treating Special Event Permits as ministerial (claims permits should be treated as discretionary under CEQA.) Briggs withdrew as co-counsel shortly after filing.

4. 37-2012-00095729-CU-MC-CTL - *Coalition for Save & Healthy Economic Progress v. City of San Diego; RPI WalMart Stores, Inc.; Imperial Market Investors, LLC; Steve Julius Construction, Inc.* - Case consolidated with 37-2012-00096168-CU-MT-CTL - CEQA Challenge; Injunction to stop demolition and construction.

5. 37-2012-00096168-CU-MT-CTL - *Coalition for Save & Healthy Economic Progress v. WalMart Stores, Inc.; Imperial Market Investors, LLC; Steve Julius Construction, Inc.; City of San Diego* - On Appeal, City tendered - CEQA Challenge to permits for Farmer's Market/WalMart Community Store. Related case 37-2012-0095729-CU-TT-CTL consolidated with this lawsuit.

6. 37-2012-00086572-CU-MC-CTL - *San Diegans for Open Government (SPRECKLES) v. City of San Diego; Public Facilities Financing Authority of the City of San Diego; et al* - Pre-Trial - Challenge to City and Public Facilities Financing Authority ability to issue 2012 Spreckels Pavillion Parking lot bonds. Seeks declaratory and injunctive relief.

7. 37-2013-00048878-CU-MC-CTL - *San Diegans for Open Government (PRA) v. City of San Diego* - Hearing on writ petition scheduled for June 12, 2014. Plaintiff's opening brief due May 20 and City's opposition due May 30. Additionally, hearing on motion to quash deposition subpoena scheduled for March 14. Plaintiff wants all communications between Todd Gloria and any other person with regard to March 4, 2013 pursuant to PRA Request, including private text messages.

8. 37-2013-00052721 - *San Diegans for Open Government (BID) v. City of San Diego* - Case in discovery phase. SDOG claims the City's BID assessments are illegal taxes under Proposition 26.

9. 37-2013-00056051-CU-MC-CTL - *San Diegans for Open Government (PRA Closed Session Transcript) v. City of San Diego* - Pre-trial - Declaratory Relief action under CPRA for records requested relating to City Council Closed Session on 6/18/13, as well as any CS transcripts that evidence former Mayor Filner ordering/directing Andrew Jones to sit down.

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10. 37-2013-00056749 - *San Diegans for Open Government (SUNROAD) v. City of San Diego; RPI Sunroad Enterprises; Sunroad Centrum Partners, LP* - Motion pending - Challenges City Council's action to waive Council Policy prohibiting encroachments on park land.

11. 37-2013-00062168-CU-TT-CTL - *North Park Preservation Coalition v. City of San Diego; RPI Jack In The Box, Inc.; John O. Thomas* - pre trial

12. 37-2013-00062382 - *San Diegans for Open Government (Downtown Partnership) v. RPI City of San Diego; Defendants Downtown San Diego Partnership, Inc., New City America, Inc.; Marco LiMandri; Progressive Urban Management Associates, Inc.* - Demurrer sustained without leave to amend for Partnership and Individual Defendants; SDOG will amend comp - SDOG claims the Partnership mis-allocates PBID funds and expends them for general benefits rather than special benefits that are appreciated by PBID assessment payors.

13. 37-2013-00062908-CU-MC-CTL - *San Diegans for Open Government (PBID/MAD-14) v. City of San Diego; County of San Diego* - Demurrer to 2nd Amended Complaint pending - SDOG claims the City's PBID and 57 MADS are illegal tax schemes.

14. 37-2013-00066088-CU-TT-CTL - *CREED-21 (Sunroad) v. City of San Diego; RPI Sunroad Enterprises; Sunroad Centrum Partners, LP* - Pre-Trial - Challenges City Council's action to waive Council Policy prohibiting encroachments on park land.

15. 37-2014-00000217-CU-MC-CTL - *San Diegans for Open Government v. City of San Diego; Jan I. Goldsmith* - pre trial - Defendants' responsive pleading due February 27, 2014 - PRA - seeking City Attorney Jan Goldsmith's personal/private emails.

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