

Office of the City Attorney, City of Sacramento

Report for Calendar Year

2022



City Attorney's Message

The City Attorney's Office is pleased to present the annual report of activities accomplished in 2022. Emerging from the pandemic, 2022 was a year of transition on multiple fronts. The beginning of the year saw us continuing to support the city's efforts to distribute ARPA funding and other grants to community organizations and businesses to address the effects of closures and by the end of the year we were working on multiple projects addressing re-opening efforts, including the Council's return to in-person meetings and establishing hybrid work schedules.

Last year was also a significantly busy election year with multiple Charter amendments addressing governance as well as four council district elections. Attorneys spent a significant amount of time working on and drafting Measures L, M, N and O for the voters' consideration. After voters approved these measures, the attorneys immediately began working on drafting implementation recommendations for the Council. The City Attorney's work advising the council and departments on implementing these measures will continue in 2023.

In 2022, the city embarked on an effort to address the homelessness crisis by requesting that the county enter in to an MOU that sought to clearly identify the roles and responsibilities of each agency and clearly identify specific cooperative steps the city and county were going to take to collaboratively tackle the homelessness crisis. Attorneys played a significant role in the development of this agreement. Implementation of this MOU will factor significantly in 2023.

Respectfully,
Susana Alcala Wood
City Attorney
City of Sacramento

City Attorney's Office Administration Team

OVERVIEW

The administration and general support functions of the office are performed under the direction of the City Attorney. The Administration Team is City Attorney Susana Alcala Wood; Chief Assistant City Attorney Sandra G. Talbott ; Assistant City Attorney Matthew D. Ruyak; Assistant City Attorney Brett M. Witter; Supervising Deputy City Attorneys Gustavo. L. Martinez, Jerry C. Hicks, Steve Y. Itagaki and Andrea M. Velasquez; Law Office Administrator Angela Kolak; and Special Assistant to the City Attorney Jenny Manzer Beck.

The Administration Team strives to maintain a work environment that inspires excellence and creativity, while rewarding productivity. We promote career enhancement with ongoing training and staff development. The office provides staff the opportunity to obtain needed credits for Mandatory Continuing Legal Education (MCLE), as well as other professional-association seminars.

The Administration Team develops and implements office policies and procedures; monitors overall office performance and individual performance; prepares and administers the office budget; handles all personnel hiring and other personnel matters; assembles and analyzes office productivity data, including production of an annual report; and engages in long-range and succession planning. Together the team prioritize the establishment and maintenance of relationships and trust with the City Council and their staff, public commissions and valued City departments, officers and city staff.

Legislation Highlights

Many of the City Council’s goals and policies are implemented by the enactment of new resolutions and ordinances or the amendment of existing resolutions and ordinances. The City Council adopted 33 ordinances during 2022.

The General Counsel & Advisory Section, Strategic Projects & Research Section, Community Advocacy & Public Safety Section, and the Litigation & Human Resources Section assisted City staff in drafting legislation and, where needed, in working through the entire process of developing effective legislation and working with stakeholders and other interested parties. Our Draft Ordinance Review Committee (DORC) held 28 meetings to review various legislative proposals during Calendar Year 2022. Below are the issues addressed by ordinances enacted during 2022.

Amending City’s Fee and Charge Report for Recycling and Solid Waste Rates	Landmark on Sacramento Register of Historical and Cultural Resources 1121 40th Street
Amending City Code Relating to Cannabis Businesses and the Illegal Cultivation of Cannabis	Adding Section to the Sacramento City Code Relating to Organic Mulch and Paper
Listing of 2701 E Street as a Landmark on the Sacramento Register of Historic Cultural Resources	Repealing of Ordinance and Levying Special Taxes Relating to Improvement Areas of Delta Shores
Amending Title 17 of City Code by Rezoning Acres of Luther Drive	Development Agreement for Innovation Park Planned Unit Development
Listing 420 4th Avenue as Landmark on Sacramento Register of Historic and Cultural Resources	Listing 2722 Coleman Way as Landmark on the Sacramento Register of Historic and Cultural Resources
Amending Sacramento City Code Relating to Sidewalk Obstructions and Pedestrian Interference	Adding to the Sacramento City Code Relating to Emergency Shelter and Enforcement Act of 2022
Adding to the Sacramento City Code Relating to the Panhandle Impact Fee	Rezone Approximately 1.13 Acres of Real Property from Limited Commercial & Executive Airport Overlay
Amending Sections of the City Code Relating to the Docks in Old Sacramento	Amending and Adding Sections to the Sacramento City Code to Adopt Local Amendments to the California Building Standards Code Relating to Alternative Water Systems.
Listing Montgomery Way as Landmark on the Sacramento Register of Historic and Cultural Resources	Amending Sacramento City Codes Relating to Sacramento Metropolitan Cable Television Commission

Legislation Highlights

Amending Title 17 of the Sacramento City Code by Rezoning 183.8± Gross Acres from the Sports Complex Zone (SPX-PUD) to the General Commercial Zone (C-2-PUD) at 1 Sports Parkway in Accordance with the Innovation Park Planned Unit Development	Rezone Approximately 5.23 Acres of Real Property from the Heavy Commercial (C-4-Spd) Zone to the General Commercial (C-2-Spd) Zone within the River District Special Planning District
Deleting Chapter 10.32 of the Sacramento City Code, Relating to Cruising	Listing 2911 Riverside Boulevard as a Landmark on the Sacramento Register of Historic and Cultural Resources
Amending section 3.82.030 of the Sacramento City Code, relating to disposition of badges	Amending and Deleting Sections of Sacramento City Code, Relating to Access to Health Care Facilities and Declaring the Ordinance to be an Emergency Measure to Take Effect Immediately Upon Adoption
Amending Title 17 of the Sacramento City Code by Rezoning ±8.34 Acres on San Juan Road from the Agricultural (A) Zone to the Multi-Unit Dwelling (R-3a) Zone.	Adding Chapter 12.100 to the Sacramento City Code, Relating to Emergency Shelter and Enforcement Act of 2022
Amending Section 8.136.020 of, and Adding Section 8.136.080 to, the Sacramento City Code, Relating to Registration of Vacant Lots	Deleting and Adding Chapter 15.36 of the Sacramento City Code, Relating to Adoption of the 2022 California Fire Code with Local Amendments
Amending Chapters and Sections of Title 15 of the Sacramento City Code to Adopt Local Amendments to the CA Building Standards Code, Relating to the Sacramento City Building Code	Ordinance Relating to Building Standards Code Relating to New Building Electrification
Amending Sections of Sacramento City Code to Adopt Local Amendments to the CA Building Standard Code, Relating to Alternate Water Systems	Adding Chapter 1.14 to City Code Relating to Mayor and Councilmember vacancies
Repealing Ordinance No. 2021-0034 and Adopting Military Equipment Use Policy	

Office Overview

Operations and Objectives

Operating Budget for FY 2021-2022: \$ 10,998,570

Sources:

General Fund: \$ 8,088,179

Interdepartmental Funds: \$ 2,432,221

Enterprise or other funding: \$ 478,170

The City Attorney's budget includes a fixed annual revenue amount of \$52,000. That budgeted amount is recovered primarily from services billed to the Sacramento Public Library Authority, as well as other fees and charges recoverable to the City Attorney from the Citywide Fee and Charge Schedule.

The City Attorney also received an additional \$14,600 for services rendered to the Sacramento Public Library Authority in excess of the services delivered as part of the fixed annual amount. Pursuant to Council Resolution #2020-0227, these funds were set aside in the City Attorney's technology capital improvement project (CIP) which is used as the primary source for new computer hardware when end-of-lifecycle equipment is replaced.

In addition to the revenue figures above, the City Attorney recognized a total of \$474,095 in revenue under Council Resolution #2009-164 (Justice for Neighbors Multi-Year Operating Project). Those funds were set aside in the JFN MYOP, which is used to provide resources to the City to combat quality-of-life-issues under the Social Nuisance Code.

Office Overview

Operations and Objectives

Department efficiencies: Incorporated pandemic-related protocols into office policies and practices in preparation for return to work in city spaces. Provided office equipment to remote staff to maintain seamless support of department mission.

SERVICE-DELIVERY PRIORTIES ACHIEVED IN 2022:

Continued to guide the Council and Departments through the changing laws and regulations related to cannabis, pandemic protocols on enforcement programs, and the expansion and evolution of the Cannabis Opportunity Reinvestment and Equity program.

Assisted the Council and City Manager by researching and advising on options available to the City for securing additional resources and opportunities to provide services and housing for the City's unsheltered population.

Assisted the Council and City Manager by analyzing, researching, and advising on issues related to the pandemic, including the health and safety of employees and citizens, economic recovery, access to available funding, and return to city spaces protocols.



Community Advocacy & Public Safety

Division ("CAPS")

This division provides advisory and enforcement services to the Sacramento Police Department (SPD) and the Code Enforcement and Dangerous Housing divisions of the Community Development Department. The division partners with enforcement departments to prosecute and abate physical and social nuisances. The division also includes a Criminal Prosecution Unit that prosecutes criminal violations of the City Code.

The mission of the division is to fight corrosive social and criminal nuisances that degrade the quality of life in the City. Operating under the "broken windows" theory, the division's aim is to identify, prioritize, and address criminal problems before they grow into serious offenses that can lead to urban decay. The division understands that the ability to respond to neighborhood complaints and address criminal problems proactively is critical to improving quality of life in our neighborhoods.

Through the Justice for Neighbors (JFN) program our office has coordinated with the City's enforcement departments, including the Fire and Community Development Departments, to target abandoned structures, nuisance properties, and blight plaguing neighborhoods. The JFN team files lawsuits seeking aggressive and specifically-tailored injunctive relief, including stay-away orders, closure of properties, hiring of security guards, installation of video camera systems, and other improvements to properties.

Summary Calendar Year

Assignments and Matters: 399

Staff Reports: 133	Contracts: 69	Public Records Act: 78
Criminal Prosecution: 182 Misdemeanors 180 Infractions: 2		

CAPS-Notable Achievements

- Continued to close illegal residential cannabis grow houses and collect a substantial amount of administrative and civil penalties.
- Led the Justice for Neighbors team to abate social and physical nuisance properties throughout the City.
- Assisted the Department of Community Response and the City Manager's Office with producing the Citywide Homelessness Response Protocols establishing a priority ranking system to address encampments and criteria for removal.
- Assisted the Police Department with training and producing confidential police personnel records pursuant to SB 1421 and AB 748 state disclosure laws.
- Assisted the Police Department with training and guidance on petitioning the courts for emergency gun violence restraining orders against persons posing a danger to self or others.



General Counsel & Advisory Division

The General Counsel and Advisory Division provides legal advice and support to the City Council, all City departments, and staff. The advisory attorneys provide full support for City operations, including:

Drafting and reviewing ordinances and resolutions

Preparation and review of contractual documents

Researching federal, state, and local law



Summary Calendar Year 2022

Assignments and Matters: 2521

Staff Reports: 886	Public Records Act: 97	Contracts: 1314
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General Counsel & Advisory

Notable Achievements

- Aided in the drafting of a first-in-the-nation resolution creating a youth liaison to City Council, to enhance youth participation at Council meetings.
- Worked with DOU staff and consultants to draft resolutions for the first proposed new drainage rate since the passage of Proposition 218 in 1996. The resolutions set out City procedures for majority protest proceedings and mailed ballot elections; developed a mail ballot election process; and addressed legal questions that arose during the process. The City's voters ultimately approved a new drainage rate in the first property-related fee election in City history.
- Coordinated a class action lawsuit based on unlawful collusion on prices for aluminum sulfate purchased by the Department of Utilities. The total distribution to the City of \$148,518, constituted a material return on the estimated overcharges by the City's vendors.
- Aided in the drafting of an ordinance regulating the public's use of the Old Sacramento Docks – leased from the State. After decades without any regulations, a new City Code was adopted regulating the location, hours, and fees for public mooring. In addition to providing a definitive set of rules for vessel owners who utilize the docks, the new City Code should enhance the public's overall experience at the dock area in Old Sacramento.
- Assisted in drafting an agreement for the receipt of \$1.8 million dollars in state funding that was applied towards the expansion of Fairytale Town. As part of the funding provided to the City through Senate Bill 170, \$1.8 million was allocated towards a construction project that expands Fairytale Town. The half-acre expansion includes construction of a story center activity building that includes an indoor play area and meeting room as well as an outdoor amphitheater-style area for additional educational events. While Fairytale Town must raise additional funds for completion of the project, the agreement provides that the City will reimburse Fairytale Town, Inc., for up to \$1.8 million dollars as part of the construction project.
- Assisted City staff (planning division and utilities department) in having an alternate water systems (dual plumbing) ordinance enacted. The ordinance makes local amendments to the California Plumbing Code to require gray water systems for certain buildings over 10,000 square feet and require installation of an additional piping system for on-site treated non-potable gray water systems for certain buildings that are over 50,000 square feet.
- Assisted the building division in enacting an ordinance making local amendments to the 2022 California Building Standards Code.
- Assisted the planning division and building division in enacting an ordinance making local amendments to the 2022 California Green Standards Code that prohibited gas infrastructure for certain new buildings three stories or less.
- Advised the Community Development Department on the drafting of the 2040 General Plan (scheduled for adoption in 2023).

- Advised on the implementation of new housing laws on topics including accessory dwelling units, ministerial housing approvals, urban lot splits, and issues raised under the Housing Accountability Act, all of which are aimed at increasing housing availability within the City.
- Advised on several housing projects that will bring much needed housing to the City, including Joshua's House, which will provide a place to stay and comfort care to terminally ill individuals experiencing homelessness. It will be the first hospice center for terminally ill homeless people in California and one of only a few in the country.
- Assisted in negotiating EAP contract with new provider.
- Worked with Leaves office to assist several employees with accommodations to continue working.
- Reviewed documentation and advised on the close-out of several long-term construction projects, including the SAFE Credit Union Convention Center, the SAFE Credit Union Performing Arts Center, Fire Station 14, and the Winn Park Building.
- Drafted and reviewed grant documents for the allocation and expenditure of \$23,050,000 million in Community Reinvestment Projects and Lower American River Parkway Access Improvement Projects.

Litigation

The Litigation Division defends and prosecutes civil litigation cases on behalf of the City and its officers and employees acting in the course and scope of employment; and provides legal support to Risk Management. Division attorneys work in all manner of law including civil rights, personal injury, property damage, construction defect, eminent domain, breach of contract, employment, and CEQA. Division attorneys work in both the administrative and civil arenas providing litigation services in arbitration and administrative proceedings and in both state and federal courts.

Summary Calendar Year

Ongoing Litigation Cases Handled: 345

Cases Resolved: 104

Litigation Cases Opened: 122

Litigation Review: 14	Cannabis: 4	Civil Rights: 15
Employment: 19	Subrogation-Collection: 4	Tort/Appeal: 52
Writs: 7	Eminent Domain: 1	Contract: 1
Litigation Advice: 3	Code Enforcement: 1	Petition to File Late Claim: 1
TRO: 1		

Other Assignments: 29

Advice: 11	Public Records Act: 6	Subpoenas: 12
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Litigation-Notable Achievements

- ***Area Congregation Together, et al. v. City of Sacramento, et al.*** - Petitioners filed a writ of mandate, seeking to deprive the citizens of the City of Sacramento of their right to vote on the Emergency Shelter and Enforcement Act of 2022 (ESEA) on the grounds that it violated *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584. The City successfully opposed the writ and the ESEA was placed on the November 2022 ballot as Measure O, which was passed by the voters.
- ***Emily Wheeler v. Appellate Div. of LA Superior Court*** - At the request of the City of Los Angeles, the City drafted and filed an amicus brief regarding this commercial cannabis regulation case. The brief focused on the importance and significant interest in maintaining local control over commercial cannabis regulation and enforcement.
- ***Lana LeChabrier v. City of Sacramento*** - Plaintiff alleged to have suffered personal injuries including being deafened by a Sacramento Regional Transit light rail train that honked its horn while passing J Street at the 6th Street intersection. The Court granted the City's demurrer to Plaintiff's complaint. Plaintiff appealed the Court's ruling.
- ***Laura Birdsong v. City of Sacramento*** - Plaintiff suffered personal injuries in a slip and fall while walking on the sidewalk at the 800 block of Plaza Avenue. Plaintiff alleged the accumulation of mud and algae created a dangerous condition of public property. The City filed a motion for summary judgment and Plaintiff dismissed the case.
- ***Khousa Vang v. City of Sacramento***: Plaintiffs alleged civil rights violations and wrongful death in this officer-involved shooting case. Senior Deputy City Attorneys Sean Richmond and Matthew Day tried the case in Federal Court. The result was a hung jury heavily favoring the City.
- ***Angela Updegraff v. City of Sacramento***: This case involved a tree branch that fell and struck Plaintiff, causing significant injuries. Senior Deputy City Attorneys Chance Trimm and Matthew Day tried the case in Superior Court and obtained a defense verdict.
- ***Curtis Luckey v. City of Sacramento***: Plaintiff alleged he was falsely arrested by the Sacramento Police Department. Division attorneys filed a motion for summary judgment which the Superior Court granted, resulting in judgment in favor of the City.
- ***Lisa Kenton v. City of Sacramento*** - Plaintiff suffered personal injuries in a trip and fall while walking in a mow strip in front of 1318 18th Street. Plaintiff sued the property owners and the City alleging dangerous condition of public property. After the City filed a motion for summary judgment Plaintiff dismissed the City.

Notable Achievements,

- ***Caliber Collision v. City of Sacramento and RASA*** - Caliber operates an autobody repair business located at 2310 Lexington Street, Sacramento CA. Throughout 2020 and 2021, Caliber claimed individuals experiencing homelessness had been living on City streets and City lots adjacent to its property, threatening “the health, safety, and well-being of Caliber’s employees, customers and vendors, and have further caused detrimental effects to Caliber’s business, with the threat of further and escalating business damage and unsafe conditions.” Caliber sued the City in Federal Court alleging its constitutional rights had been violated. It sought injunctive relief and the recovery of attorney’s fees and costs. The City and RASA settled this matter with Caliber 4 months after the complaint was filed. In exchange for installing parking restriction signage and allowing Caliber to lease the adjacent RASA properties, Caliber dismissed all of its claims against the City, including its claim for attorney’s fees and costs.

Strategic Projects & Research Division

The Strategic Projects and Research Division provides legal advice on projects initiated by the City Council or that require multi-departmental coordination. SPR attorneys also provide legal advice to the City Council, charter offices, and city departments .

Summary Calendar Year

Assignments and Matters: 458

Staff Reports: 657	Public Records Act: 52	Contracts: 124
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Notable Achievements

- Emergency Shelter and Enforcement Act of 2022. Assisted and advised on the voter-approved ESEA, as well as the related homelessness partnership agreement between the City and County of Sacramento, and the City's and County's collaboration protocol; all of which commit the City and County to work together to address the local homelessness crisis, with a focus on unified outreach, enrollment of services, mental health services, and temporary and permanent housing.
- Railyards CFD Special Tax Bonds, Series 2022. Represented the City in the \$30 million bond issuance for the Railyards Community Facilities District, which included the review and revision of the master indenture, supplement indenture, bond purchase agreement, and the preliminary official statement. The Bond proceeds are expected to be used for the acquisition and construction of a storm drainage pump station and outfall facility as well as other water and storm drain improvements, roadways and traffic improvements, and landscaping and park improvements.
- La Familia Opportunity Center Grant Agreement. Drafted a \$2 million grant agreement between the city and La Familia Counseling Center, Inc., for the acquisition and construction of the La Familia Opportunity Center. The Center will serve as a community hub and provide critical services and resources to some of the city's most disadvantaged neighborhoods.
- Public Benefits and Mixed Income Housing Policy. Assisted with the adoption of the policy and the completion of the first policy project with CT Gateway LLC at 3400-3401 Stockton Blvd. The project involved a \$15 million investment for 230 units, with 161 affordable housing units, including low- and moderate-income units. This project contributes to the City's efforts to reduce homelessness by increasing the number of affordable housing units in the city and by utilizing non-housing city funds to create a public benefits fund to produce more projects that support the community.
- Railyards Infrastructure Grant Project Delivery Agreement. Drafted a project delivery agreement between the city and the master developer of the Railyards project, Downtown Railyard Venture, LLC, under which the city will provide up to \$30 million in State-allocated funds for the design and construction of public infrastructure that will spur development in the Railyards.

Office Programs

Law Clerks:

Our award winning law clerk program continues to thrive, thanks to all of the attorneys who are willing to work with and provide guidance to the students. Our office was acknowledged by the McGeorge School of Law's Public Legal Services Society as an exceptional supporter of their mission of enhancing the ability of law students to choose public interest or public service careers in the 2020-2021 academic year.

The majority of the applicants are students from local law schools, (University of the Pacific and UC Davis) but we have also had applicants from Berkeley, Pepperdine, University of Virginia, and William and Mary. Our office hosts students year-round, part-time during the school semesters and full-time during the summer. The law clerks are not paid but receive a wealth of experience as they work on issues from all four sections within the office.

The law clerks also accompany attorneys to meetings, arbitrations, mediations, depositions, hearings, and trials, all of which help them utilize their newly acquired skills in a professional setting. The office currently has four former law clerks that were hired to work as Deputy City Attorneys.



Career Fair Outreach:

Our Office joined the Sacramento Regional Diversity Career Fair which aims to connect employers with diverse legal candidates for current and future job openings. This furthers our commitment to diversity, equity and inclusion in the workforce.



Leadership:

The Sacramento City Attorney's Office and City Attorney Susana Alcalá Wood were awarded the Leadership Award from Habitat for Humanity for their innovative work in helping to create more affordable housing. The Justice for Neighbors program has helped to transform former illegal cannabis grow houses into affordable housing for families.





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