

284848

284848



284848

E. L. AND
COMPTROLLER AND CITY CLERK

77 APR 8 PM 1:36

FILED
CITY OF SEATTLE

CITY OF SEATTLE
LAW DEPARTMENT

1976 Annual Report

JOHN P. HARRIS
Corporation Counsel

284848

ASSISTANT CORPORATION COUNSEL

JAMES M. TAYLOR
GORDON F. CRANDALL
G. GRANT WILCOX
THOMAS J. WETZEL
ARTHUR T. LANE
JORGEN G. BADER
CHARLES R. NELSON
LAWRENCE K. McDONELL
J. ROGER NOWELL
E. NEAL KING
JAMES B. HOWE, JR.
DONALD H. STOUT
PHILIP M. KING
RICHARD E. MANN
WALTER L. WILLIAMS
JAMES G. BLAIR
CHARLES D. BROWN
DONA M. CLOUD
ROSS A. RADLEY
GORDON B. DAVIDSON
DIANA F. THOMPSON
MAR'ANNA S. COOKE

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING - SEATTLE, WASHINGTON 98104
AREA CODE 206 TELEPHONE 625-2402

JOHN P. HARRIS, CORPORATION COUNSEL

April 5, 1977

CITY PROSECUTORS

RICHARD S. OETTINGER
ROBERT M. ELIAS
JACK B. REGAN
ROBERT B. JOHNSON
JOSEPH T. SCHLOSSER
DAVID S. ADMIRE
MYRON L. CORNELIUS
ELIZABETH A. HUNEKE
HARRIETT M. CODY
DAVID N. WALTON
ANDRE WOOTEN

CLAIMS MANAGER

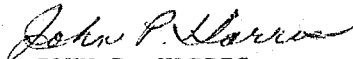
V. L. PORTER

Mr. E. L. Kidd
City Comptroller
The City of Seattle

Dear Sir:

Enclosed herewith is the City Law Department's 1976
annual report to the Mayor and City Council.

Very truly yours,


JOHN P. HARRIS
Corporation Counsel

JPH:mlk
Enclosure

CITY OF SEATTLE LAW DEPARTMENT

Annual Report

1976

JOHN P. HARRIS, *Corporation Counsel*

ASSISTANTS CORPORATION COUNSEL

JAMES M. TAYLOR
GORDON F. CRANDALL
G. GRANT WILCOX
THOMAS J. WETZEL
ARTHUR T. LANE
JORGEN G. BADER
CHARLES R. NELSON
LAWRENCE K. McDONELL
J. ROGER NOWELL
E. NEAL KING
JAMES B. HOWE, JR.
DONALD H. STOUT
ROBERT M. ELIAS
JACK B. REGAN
ROBERT B. JOHNSON
JOSEPH T. SCHLOSSER
ROSS A. RADLEY

PHILIP M. KING
RICHARD E. MANN
GORDON B. DAVIDSON
RICHARD S. OETTINGER
DAVID S. ADMIRE
JAMES G. BLAIR
MYRON L. CORNELIUS
WALTER L. WILLIAMS
ELIZABETH A. HUNEKE
CHARLES D. BROWN
DONA M. CLOUD
MARIANNA S. COOKE
HARRIETT M. CODY
DIANA F. THOMPSON
DAVID N. WALTON
ANDRE S. WOOTON
P. STEPHEN DiJULIO

LEGAL INTERNS

JOANN HARRIS
NORMAN E. PROCTOR II

CLAIMS MANAGER

VINCENT L. PORTER

SECRETARIAL SUPPORT STAFF

IRENE S. WALLING
MURIEL M. ELLINGSON
PATRICIA HARRIGAN
KATHLEEN L. MEEGAN
ARLENE McMILLAN
VIRGINIA M. FIELDS
MARY LOU KEEFE
ROBERTA M. LYONS
AMELIA T. ESMELE

Cover photograph of new Assistants (left to right) David N. Walton, Gordon B. Davidson and Andre S. Wooton, standing, and P. Stephen DiJulio and David S. Admire, seated, by Jack W. Crider, Lighting Department Photographer.

JOHN P. HARRIS
Corporation Counsel
The City of Seattle

To: The Mayor and City Council of The City of Seattle:

Submitted herewith is the annual report of the Law Department for the year ended December 31, 1976, as required by Section 12, Article XXII, of the City Charter.

As in preceding years, there continues to be a substantial growth in numbers of cases tried, opinions and ordinances written, and other work of the Law Department. Reference to the statistics herein clearly demonstrates the magnitude of growth.

During the year just passed, we have continued and intensified our policy of providing "up-front" advisory assistance in the early planning and development of City programs. The Law Department has become involved in the formative and planning stages of programs and projects as varied as the Shorelines Management Program, the Domed Stadium Parking and Access Plan, the "redlining" controversy, computer equipment procurement, the Westlake Project, towing contract specifications, the Solid Waste-Ammonia Project, a deferred compensation plan, reprogramming Forward Thrust Park funds, modernization of Fair Campaign Practices Ordinance, time incentives and value engineering in Public Works contracts, the Fifth Avenue L.I.D. project, and other programs and projects mentioned elsewhere in this report.

One illustration of early and positive involvement of the Law Department arose early in 1976 when in response to vigorous protests by residents in the Greenwood Community to the showing of adult movies at the Ridgmont Theatre, I advised that an ordinance restricting adult motion picture theatres to the downtown area could survive legal challenge provided a favorable decision was rendered by the United States Supreme Court in a pending case involving a Detroit ordinance. Consistent with such advice we prepared an ordinance amending the Zoning Code to permit "adult motion pictures" *only* in the downtown area. The ordinance was enacted shortly before the United States Supreme Court handed down its decision upholding the constitutionality of the Detroit ordinance, and the constitutionality of the Seattle ordinance was similarly upheld by the King County Superior Court early this year.

In connection with our prosecution of ordinance violation cases we have continued our close liaison with the Code enforcement divisions of the various City departments, and we have further improved our response to their needs by conducting group briefings for enforcement personnel regarding proper citation and trial preparation procedures. In addition, Assistants in the prosecution division are constantly available to resolve on an individual basis the day-to-day

problems of enforcement personnel, including criminal and prefilling advice on specific cases and obtaining the issuance of subpoenas and search warrants for investigatory purposes.

The prosecution function has been further aided by the preparation and periodic supplementation by the prosecution division of a Prosecutor's Manual in which are included recent cases involving constitutional and criminal law principles as enunciated by the state appellate courts and the courts of other state and federal jurisdictions.

To further increase the effectiveness of ordinance enforcement, we initiated in 1976 a program to reduce the existing time delay for trials *de novo* in superior court. With the cooperation of the Presiding Judge of the King County Superior Court we were successful in reducing the delay from a period of seven to nine months which existed at the end of 1975, to approximately three months at the end of 1976. Reflecting that effort, the number of municipal court appeals disposed of in King County Superior Court reached an all-time high of 1306 cases—nearly double the number disposed of in 1975.

Vigorous enforcement of the City's Minimum Housing Code by the Building Department produced 279 prosecutions for violations of that code which were completed by this office in 1976. By the time many of these cases come to trial, the dwelling or other structure has been brought into compliance. This enforcement program has resulted in the marked improvement of housing stock in Seattle.

The City's highly successful consumer protection program has involved the close cooperation of the Law Department and the Department of Licenses and Consumer Affairs. This program, some of the results of which are summarized elsewhere in this report, continues to demonstrate that the City through vigorous enforcement of its laws, can provide meaningful protection of the rights of the consuming public and establish a climate of deterrence to those who would violate those rights.

Special and continued emphasis has been placed on our program of collections, now in its second year. Collections of fines, civil penalties, past due accounts, damages to City property, and similar sums owed to the City resulted in revenue to the City of more than \$145,350 in 1976.

To meet the increasing demand for legal advice and representation in administrative proceedings, one Assistant has been assigned full-time to the litigation of Workmen's Compensation cases, challenged Shorelines Permits, appeals involving compliance with the State Environmental Protection Act (SEPA), license revocation hearings by the Department of Licenses and Consumer Affairs, LEOFF (Law Enforcement Officers and Fire Fighters) disability pension cases, Board of Adjustment appeals, employment discrimination hearings, Civil Service Commission hearings, and other similar cases. Through early and continuing participation in such matters we have

been able to provide vital assistance to the offices directly involved in formulating the for the processing of both present and future

In the fall of 1976 we prepared and in the 1977 Session of the Washington State important proposed state laws. House Bill local government may not be subjected to said to result from activities of an unincorporated House Bill 469 provides a sound legal basis of social service programs, housing assistance programs. These bills are now under consideration in the legislative session.

I have continued a program of rigorous procedures and administrative structure, involving probing of performance and office routines, roles and similar endeavors to improve departmental

Changes in workflow and rearrangement of stenographic and word processing techniques for rapid production of typing assignments. Added to the City Council and will continue to operate on a "swing shift" in our word-processing center and cost-effective use of the department's fleet of Card typewriters. Some large private contractors have adopted this technique for rapid production overnight at a highly cost-effective.

The matters mentioned above and elsewhere illustrate the challenges presented and the response of the Department in the rapidly changing and expanding municipal law field. In 1976 the members of my staff—lawyers and personnel alike—have again demonstrated skill and dedication to the task at hand, and the support received from other departments, offices and agencies during the past year has greatly aided in the successful resolving and responding to the challenges.

In the final analysis, however, no small part of our success must be attributed to our ability to attract and retain a staff of specialists in the field of municipal law, and I express my appreciation to the City Council for providing the budgetary support which has made this possible.

Respectfully,



JOHN P. HAGGERTY
City of Seattle
Corporation

including criminal and pre-filing of the issuance of subpoenas and other purposes.

been further aided by the preparation by the prosecution division of a list of cases included recent cases involving principles as enunciated by the state and other state and federal jurisdictions. The effectiveness of ordinance enforcement, to reduce the existing time delay for the processing of such cases with the cooperation of the President of the Superior Court we were successful in reducing the time of seven to nine months which existed to approximately three months at the end of the year. The number of municipal court appeals to the Superior Court reached an all-time high of 1,279 in 1976. By the time the dwelling or other structure has been vacated this enforcement program has resulted in the release of housing stock in Seattle.

The consumer protection program has been expanded by the Law Department and the Department of Consumer Affairs. This program, some of which is detailed elsewhere in this report, consists of the vigorous enforcement of laws for the protection of the rights of the consumer. The immediate deterrent to those who violate these laws has been placed on our program. Collections of fines, civil penalties, and similar sums to City property, and similar sums have resulted in an increase in revenue to the City of more than \$1 million.

and for legal advice and representation, one Assistant has been assigned to handle Workmen's Compensation cases, challenges involving compliance with the Clean Air Act (SEPA), license revocation hearings and Consumer Affairs, LEOFF (Law Enforcement Officers and Fire Fighters) disability pension cases, employment discrimination hearings, and other similar cases. In our participation in such matters we have

and for legal advice and representation, one Assistant has been assigned to handle Workmen's Compensation cases, challenges involving compliance with the Clean Air Act (SEPA), license revocation hearings and Consumer Affairs, LEOFF (Law Enforcement Officers and Fire Fighters) disability pension cases, employment discrimination hearings, and other similar cases. In our participation in such matters we have

been able to provide vital assistance to the City departments and offices directly involved in formulating the City's policy and strategy for the processing of both present and future cases.

In the fall of 1976 we prepared and submitted for introduction in the 1977 Session of the Washington State Legislature two vitally important proposed state laws. House Bill 648 provides that units of local government may not be subjected to damage claims which are said to result from activities of an uniquely governmental nature. House Bill 469 provides a sound legal basis for local implementation of social service programs, housing assistance, and certain other programs. These bills are now under consideration in the current legislative session.

I have continued a program of rigorous review of office procedures and administrative structure, involving constant testing and probing of performance and office routines, redefinition of duties and roles and similar endeavors to improve delivery of services.

Changes in workflow and rearrangement of the department's stenographic and word processing techniques has resulted in more rapid production of typing assignments. Additionally, I have proposed to the City Council and will continue to urge implementation of a "swing shift" in our word-processing center to make more efficient and cost-effective use of the department's four automated IBM Magnetic Card typewriters. Some large private law firms already use this technique for rapid production overnight and have found it to be highly cost-effective.

The matters mentioned above and elsewhere in this report illustrate the challenges presented and the response made by this department in the rapidly changing and expanding field of municipal law. In 1976 the members of my staff—lawyers, secretaries, and claims personnel alike—have again demonstrated their high competence and dedication to the task at hand, and the fine cooperation we have received from other departments, offices and agencies of City government during the past year has greatly aided this department in successfully resolving and responding to the challenges presented.

In the final analysis, however, no small measure of our success must be attributed to our ability to attract and retain a career staff of specialists in the field of municipal law, and I wish to particularly express my appreciation to the City Council which has continued to provide the budgetary support which has made this possible.

Respectfully submitted,



JOHN P. HARRIS
Corporation Counsel

I.
GENERAL STATEMENT OF LITIGATION

1. Tabulation of Cases:

The following is a general tabulation of suits and other civil proceedings commenced, pending and ended in the Municipal, Justice, Superior, Federal and Appellate courts during the year.

	Pending Dec. 31 1975	Commenced During 1976	(1966)	Ended During 1976	(1966)	Pending Dec. 31 1976
Condemnation suits	7	3	(5)	1	(10)	9
Damages for personal injuries	168	128	(80)	121 ^a	(89)	175 ^b
Damages for other than personal injuries	147	49	(29)	54 ^c	(30)	142 ^d
Damages—City as plaintiff	89	35	(—)	34	(—)	90
Contract actions	18	14	(—)	6	(—)	26
Collections on Municipal Court Judgments	67	94	(—)	85	(—)	76
Extraordinary writs (injunctions, mandamus, certiorari, habeas corpus)	117	40	(17)	45	(18)	112
Administrative proceedings Municipal Court Civil Actions	38	55	(—)	33	(—)	60
Miscellaneous proceedings	169	174	(—)	279	(—)	64
Sub-total	152	47	(56)	50	(41)	149
Appeals from Municipal Courts (Traffic and other violations)	972	639	(187)	708	(188)	903
Grand Total	1,329	1,294	(874)	1,306	(749)	1,317
	2,301	1,933	(1,061)	2,014	(937)	2,220

a Including 15 Metro cases. c Including 8 Metro cases.
b Including 14 Metro cases. d Including 1 Metro case.

2. Segregation--Personal Injury Actions:

	Number	Amount Involved
Pending December 31, 1975	168 ^a	\$34,602,675.40
Commenced since January 1, 1976	128 ^b	32,743,606.57
Total	296	\$67,346,281.97
Tried and concluded since January 1, 1976	121	16,663,390.47
Pending December 31, 1976	175 ^c	\$50,682,891.50

a Includes 12 cases in which amount of damages is unspecified.
b Includes 29 cases in which amount of damages is unspecified.
c Includes 22 cases in which amount of damages is unspecified.

Of the 121 personal injury actions concluded in 1976, 13 involving \$614,895.00 were won outright. In 1 case in which \$1,000,000.00 was claimed, plaintiff recovered \$71,000.00.

Of the remaining 107 cases in which plaintiffs claimed in excess of \$15,048,495.47, 49 cases involving in excess of \$3,885,229.25 were covered by insurance, 56 cases involving in excess of \$11,063,266.22 were settled or dismissed without trial for a total of \$1,143,833.80, and 2 cases with total claimed amount of over \$100,000.00 were returned to Metro.

3. Segregation—Damages Other Than Personal Injuries

	Number	\$
Pending December 31, 1975	147 ^a	
Commenced since January 1, 1976	49 ^b	
Total	196	
Tried and concluded since January 1, 1976.....	54	
Pending December 31, 1976	142 ^c	

a Includes 7 cases in which amount of damages is unspecified.
 b Includes 3 cases in which amount of damages is unspecified.
 c Includes 7 cases in which amount of damages is unspecified.

Of the 54 cases involving damages other than personal injuries concluded in 1976, 25 involving \$1,114,694.46 were tried. In 9 cases involving in excess of \$7,094,600 plaintiffs received \$2,917,357.88. The remaining 20 cases involving \$3,885,229.25 were settled or dismissed without trial for a total of \$8,406,681.19.

The above actions concluded in 1976, involving damages other than personal injuries and damages other than personal injuries are classified as to department or activity involved, as follows:

	Number
Building Department (includes 1 case covered by insurance)	12
Comptroller	1
Engineering Department:	
Sewer Utility	5
Sidewalk (includes 1 case covered by insurance)	8
Street (includes 2 cases covered by insurance)	23
Fire Department	1
Library	1
Licenses and Consumer Affairs	1
Lighting Department (includes 2 cases covered by insurance)	8
Model Cities	1
Municipality of Metropolitan Seattle	38
Parks and Recreation Department	5
Police Department (includes 39 cases covered by insurance)	50
Public Health Department (includes 1 case covered by insurance)	4
Seattle Center (includes 6 cases covered by insurance)	8
Transportation Department	2
Water Department	7

4. Appellate Proceedings:

At the close of 1975, six appeals involving the City of Seattle were pending in the State Supreme Court, 36 in the State Court of Appeals and 10 before the United States Court of Appeals.

In 1976, six new appeals were filed in the State Supreme Court and 22 were filed in the State Court of Appeals. Four cases were transferred to the State Supreme Court from the Court of Appeals and six cases before the Court of Appeals were consolidated.

The City prevailed in 12 of the 15 cases involving damages other than personal injuries which the State Court of Appeals rendered a decision.

I. STATEMENT OF LITIGATION

General tabulation of suits and other civil proceedings pending and ended in the Municipal, Justice, Superior and Appellate courts during the year.

Pending Dec. 31 1975	Commenced During 1976	(1966)	Ended During 1976	(1966)	Pending Dec. 31 1976
7	3	(5)	1	(10)	9
168	128	(80)	121 ^a	(89)	175 ^b
147	49	(29)	54 ^c	(30)	142 ^d
89	35	(-)	34	(-)	90
18	14	(-)	6	(-)	26
67	94	(-)	85	(-)	76
117	40	(17)	45	(18)	112
38	55	(-)	33	(-)	60
169	174	(-)	279	(-)	64
52	47	(56)	50	(41)	149
972	639	(187)	708	(188)	903
329	1,294	(874)	1,306	(749)	1,317
301	1,933	(1,061)	2,014	(937)	2,220

c Including 8 Metro cases.
 d Including 1 Metro case.

Personal Injury Actions:

	Number	Amount Involved
1976	168 ^a	\$34,602,675.40
.....	128 ^b	32,743,606.57
.....	296	\$67,346,281.97
January 1, 1976	121	16,663,390.47
.....	175 ^c	\$50,682,891.50

^a amount of damages is unspecified.

^b amount of damages is unspecified.

^c amount of damages is unspecified.

Personal injury actions concluded in 1976, 13 involving damages other than personal injuries outright. In 1 case in which \$1,000,000.00 was recovered \$71,000.00.

There were 56 cases in which plaintiffs claimed in excess of \$100,000.00 in damages involving in excess of \$3,885,229.25. In 56 cases involving in excess of \$11,063,000.00, 56 cases involving in excess of \$11,063,000.00 were dismissed without trial for a total of \$1,143,000.00. The total claimed amount of over \$100,000.00.

3. Segregation—Damages Other Than Personal Injuries:

	Number	Amount Involved
Pending December 31, 1975	147 ^a	\$16,414,467.68
Commenced since January 1, 1976	49 ^b	9,816,652.19
Total	196	\$26,231,119.87
Tried and concluded since January 1, 1976.....	54	3,007.69
Pending December 31, 1976	142 ^c	\$14,123,112.18

a Includes 7 cases in which amount of damages is unspecified.

b Includes 3 cases in which amount of damages is unspecified.

c Includes 7 cases in which amount of damages is unspecified.

Of the 54 cases involving damages other than personal injuries concluded in 1976, 25 involving \$1,114,694.46 were won outright. In 9 cases involving in excess of \$7,094,600 plaintiffs recovered \$2,917,357.88. The remaining 20 cases involving \$3,328,678.50 were settled or dismissed without trial for a total of \$843,243.52.

The above actions concluded in 1976, involving both personal injuries and damages other than personal injuries are further classified as to department or activity involved, as follows:

	Number	Amount Paid By City
Building Department		
(includes 1 case covered by insurance)	12	\$2,897,634.00
Comptroller	1	14,000.00
Engineering Department:		
Sewer Utility	5	26,200.00
Sidewalk (includes 1 case covered by insurance)	8	8,579.30
Street (includes 2 cases covered by insurance)	23	473,737.44
Fire Department	1	450,000.00
Library	1	350.00
Licenses and Consumer Affairs	1	—
Lighting Department		
(includes 2 cases covered by insurance)	8	288,500.00
Model Cities	1	13,000.00
Municipality of Metropolitan Seattle	38	185,407.30
Parks and Recreation Department	5	382,000.00
Police Department		
(includes 39 cases covered by insurance)	50	46,093.66
Public Health Department		
(includes 1 case covered by insurance)	4	1,750.00
Seattle Center (includes 6 cases covered by insurance) ..	8	30,283.50
Transportation Department	2	71,000.00
Water Department	7	86,900.00

4. Appellate Proceedings:

At the close of 1975, six appeals involving the City were pending in the State Supreme Court, 36 in the State Court of Appeals and 1 before the United States Court of Appeals.

In 1976, six new appeals were filed in the State Supreme Court and 22 were filed in the State Court of Appeals. Four appeals were transferred to the State Supreme Court from the Court of Appeals and six cases before the Court of Appeals were consolidated for decision.

The City prevailed in 12 of the 15 cases involving the City in which the State Court of Appeals rendered a decision in 1976. The

City's petition for review of one adverse decision is pending before the State Supreme Court. Three cases before the Court of Appeals in which the City had prevailed in lower courts were dismissed for lack of prosecution by the appellant; another was withdrawn by the appellant. In four actions pending in the Court of Appeals the appeal was dismissed following settlement of the case.

In matters before the State Supreme Court in 1976, the City prevailed in 4 of the 5 cases in which it was involved where the Supreme Court rendered a decision. The City's position prevailed in 4 of the 5 cases where the Supreme Court denied further review of prior decisions of the Court of Appeals. One case in which the City had prevailed in the trial court was dismissed for lack of prosecution.

The City prevailed in the single case decided by the United States Court of Appeals.

In three of the above cases decided in 1976 where the City had prevailed, petitions for writs of certiorari were filed in the United States Supreme Court. All three petitions were denied.

At the close of the year, there were 11 appeals involving the City pending in the State Supreme Court and 25 were pending before the State Court of Appeals.

5. Miscellaneous Cases and Extraordinary Writs:

Miscellaneous cases pending at the close of 1975 and commenced in 1976 are segregated as follows:

Eighty-nine cases filed by the City for recovery of damages were pending at the close of 1975, and 35 cases were commenced in 1976. Of this total, 17 were completed in which the City recovered \$164,896.99 and 17 involving \$12,232.03, were dismissed; 90 cases are pending. Ninety-four Superior Court cases for collection of Municipal Court imposed civil penalties for Housing Code violations were filed in 1976 and 85 of such cases were completed in 1976 in which the City recovered \$63,080.05; 76 Superior Court collection cases were pending at the close of 1976. Over \$22,212.00 was collected in 1976 on Municipal Court civil penalties without filing separate actions.

Eighteen contract actions were pending at the close of 1975, and 14 were commenced during 1976. Last year 3 contract cases involving the City were dismissed without payment by the City; in 3 cases involving \$84,588.37, plaintiffs recovered \$22,284.22.

Of the other miscellaneous proceedings, the City lost 22 and won or otherwise disposed of 28; 149 such cases were pending at the end of 1976.

In addition 17 injunctive actions were concluded in 1976, of which the City won 16; 37 injunctive actions are pending. Three writs of certiorari were concluded in favor of the City during 1976 and 2 were lost; 22 are pending. Two habeas corpus writs were processed; 5 are pending. Eight writs of certiorari were closed in 1976, 6 of which

were denied; 15 are pending. Twelve cases involving requests for declaratory relief were completed in 1976 and of such cases the City won 10 and lost 2; 32 are pending. One writ of prohibition was lost in 1976 and 1 is pending.

II. CLAIMS IN 1976

The Claims Division of the Law Department investigates all claims filed against the City, and in the event of litigation, assists the legal staff pending ultimate disposition of the case. The following tabulation reflects the Claims Division's activities during 1976:

	Number	Amount Involved
On file January 1, 1976	2,251	\$85,086,321.62
Referred for investigation	1,062	61,755,726.00
Suits initiated	149	36,690,154.17
Closed without payment	637	18,270,082.03
Claims paid	438	
	(Asked)	647,954.56
	(Paid)	283,123.98
On file December 31, 1976:	2,089	\$91,233,856.86

Payment of \$283,123.98 was made in settlement of 438 claims involving various departments of the City and was effectuated as follows:

- 19 claims involving \$157,264.47 were paid pursuant to specific ordinances passed by the City Council for such purpose.
- 419 claims involving a total of \$125,859.51 were paid pursuant to Ordinance 103167 which authorizes the Corporation Counsel to approve payment of individual claims of not more than \$2,500.00.

Following is a tabulation showing in detail the departments involved and the amounts paid:

Department	Number	Amount Paid
Building	5	\$ 2,829.07
Engineering		
Construction	8	3,734.21
Sanitary Sewer	1	676.06
Sewer Utility	27	17,913.44
Sidewalks	28	18,742.60
Solid Waste Utility	1	67.50
Storm Sewer	8	4,078.06
Street Maintenance	19	11,454.75
Traffic	7	6,443.86
Fire	2	573.71
General Services	1	84.31
Lighting	83	122,038.69
Parks & Recreation	28	2,754.29
Police	33	2,664.98
Seattle Center	4	1,434.95
Water	36	16,010.68
Vehicle Fleet (All departments)*	147	71,622.82
	438	\$283,123.98

* During the year 554 accidents were evaluated and 216 claims were filed. The estimate of ultimate claims cost for the year is \$116,379.01.

The City provided claims service for Metro Transit on a contract basis during the 1973 and 1974 calendar years. During 1976, 15 of these claims involving \$99,400.56 were settled for \$14,017.33. Reserves for the settlement of unpaid and outstanding claims total \$103,747.00.

III. OPINIONS

During 1976, this department rendered 231 written legal opinions involving considerable legal research on close questions of law submitted by the various departments of City government. Additionally, the Law Department informally advised the City Council, other boards and commissions, department heads and other City administrators on innumerable occasions on a daily basis.

Also during 1976, 28 opinions on L.I.D. bond issues were requested by and rendered to the City Employee's Retirement System.

The following is a chronological resume of the written opinions rendered to the various departments of the City government throughout the year.

INDEX OF 1976 OPINIONS BY NUMBER

- 6183 Amendment and resubmission of a proposed and rejected Freeholder Charter.
- 6184 Fair Campaign Practices Commission not authorized to determine question of constitutional application of ordinance.
- 6185 Posting of partial payments to various utility accounts under joint billing process.
- 6186 Revising the Charter by "Gateway Amendment."
- 6187 Value engineering.
- 6188 Whether persons being trained as fire fighters can be excluded from membership in the Washington Law Enforcement Officers' and Fire Fighters Retirement (LEFF) System prior to completion of training.
- 6189 Cedar River agreement.
- 6190 Street Tree Planting Program.
- 6191 Application of Accountancy Act to proposed encumbrances on City Light property.
- 6192 H. H. Dearborn Trust Fund.
- 6193 Condition subsequent in deed enforceable against City.
- 6194 Executive sessions of the Fair Campaign Practices Commission.

- 6195 "Excess" benefits of former major in Police Department served as captain for the year preceding retirement upon the salary of captain.
- 6196 Woodland Park Zoo—Comprehensive Plan and Thrust Development Plan.
- 6197 *Buckley v. Valeo*, U.S. Supreme Court Nos. 75-437.
- 6198 Woodland Park Zoo Comprehensive Plan.
- 6199 Proposed garbage collection contract.
- 6200 C.B. 97189—Randolph Carter Industrial Works.
- 6201 City official participating in committee advising.
- 6202 "Term of office" includes balance of predecessor whether or not filled by election.
- 6203 Liability of City for negligence of employees with own automobiles on City business and are reimbursed on a mileage basis.
- 6204 Acquiring new office building for City use.
- 6205 "Released Matching Contributions" to Retirement.
- 6206 Jurisdiction of Parker Hotel property.
- 6207 Police Department may not "turn over" unclaimed Parks and Recreation Department.
- 6208 City may take property subject to, and assume,.
- 6209 Historic Seattle Parking Proposal.
- 6210 Reconstruction of existing arboretum gates per Initiative Ordinance 103667.
- 6211 Consequences of failure to establish Exclusive contemplated by the Washington Air Quality Improvement Plan approved by EPA, and amendment procedure.
- 6212 Proposed validation requirements on recall election.
- 6213 Salary for unexpired term.
- 6214 Assignment of contract rights.
- 6215 Assignment of contract rights by City contractor.
- 6216 Executive session to discuss interim garbage contracts would violate Open Public Meetings Act (42.30).
- 6217 Implementation of 29 CFR §§ 98.26 and 98.4 employees.
- 6218 Local Improvement District 6468, 3959 West Assessment for private extras.
- 6219 City may act as surety for an obligation of Market Preservation and Development Act, United States.

- 6195 "Excess" benefits of former major in Police Department served as captain for the year preceding retirement upon the salary of captain.
- 6196 Woodland Park Zoo—Comprehensive Plan and Thrust Development Plan.
- 6197 *Buckley v. Valeo*, U.S. Supreme Court Nos. 75-4437.
- 6198 Woodland Park Zoo Comprehensive Plan.
- 6199 Proposed garbage collection contract.
- 6200 C.B. 97189—Randolph Carter Industrial Works.
- 6201 City official participating in committee advising Board.
- 6202 "Term of office" includes balance of predecessor's term whether or not filled by election.
- 6203 Liability of City for negligence of employees with their own automobiles on City business and are reimbursed on a mileage basis.
- 6204 Acquiring new office building for City use.
- 6205 "Released Matching Contributions" to Retirement Fund.
- 6206 Jurisdiction of Parker Hotel property.
- 6207 Police Department may not "turn over" unclaimed property to Parks and Recreation Department.
- 6208 City may take property subject to, and assume, existing liens.
- 6209 Historic Seattle Parking Proposal.
- 6210 Reconstruction of existing arboretum gates per Initiative Ordinance 103667.
- 6211 Consequences of failure to establish Exclusive Economic Zone contemplated by the Washington Air Quality Improvement Plan approved by EPA, and amendment procedure.
- 6212 Proposed validation requirements on recall election.
- 6213 Salary for unexpired term.
- 6214 Assignment of contract rights.
- 6215 Assignment of contract rights by City contractor.
- 6216 Executive session to discuss interim garbage contracts would violate Open Public Meetings Act (42.30).
- 6217 Implementation of 29 CFR §§ 98.26 and 98.40 for part-time employees.
- 6218 Local Improvement District 6468, 3959 West Seattle Assessment for private extras.
- 6219 City may act as surety for an obligation of a contractor under United States.

- 6195 "Excess" benefits of former major in Police Department who served as captain for the year preceding retirement are based upon the salary of captain.
- 6196 Woodland Park Zoo—Comprehensive Plan and Forward Thrust Development Plan.
- 6197 *Buckley v. Valeo*, U.S. Supreme Court Nos. 75-436 and 75-437.
- 6198 Woodland Park Zoo Comprehensive Plan.
- 6199 Proposed garbage collection contract.
- 6200 C.B. 97189—Randolph Carter Industrial Workshop.
- 6201 City official participating in committee advising HUD.
- 6202 "Term of office" includes balance of predecessor's term, whether or not filled by election.
- 6203 Liability of City for negligence of employees who use their own automobiles on City business and are reimbursed upon a mileage basis.
- 6204 Acquiring new office building for City use.
- 6205 "Released Matching Contributions" to Retirement System.
- 6206 Jurisdiction of Parker Hotel property.
- 6207 Police Department may not "turn over" unclaimed bicycles to Parks and Recreation Department.
- 6208 City may take property subject to, and assume, mortgage.
- 6209 Historic Seattle Parking Proposal.
- 6210 Reconstruction of existing arboretum gates permissible under Initiative Ordinance 103667.
- 6211 Consequences of failure to establish Exclusive Bus Lanes, as contemplated by the Washington Air Quality Implementation Plan approved by EPA, and amendment procedure.
- 6212 Proposed validation requirements on recall elections.
- 6213 Salary for unexpired term.
- 6214 Assignment of contract rights.
- 6215 Assignment of contract rights by City contractors.
- 6216 Executive session to discuss interim garbage collection contracts would violate Open Public Meetings Act (RCW Ch. 42.30).
- 6217 Implementation of 29 CFR §§ 98.26 and 98.40 for C.E.T.A. employees.
- 6218 Local Improvement District 6468, 3959 West Barrett Lane—Assessment for private extras.
- 6219 City may act as surety for an obligation of the Pike Place Market Preservation and Development Authority to the United States.

6220	Mechanic liens—Property of public corporations.	
6221	Use of "1% for Art" funds derived from City Light for abstract sculpture in City park.	6243
6222	Electronic Surveillance Control Act—Fire & Police Department emergency operations.	6244 6245
6223	Person previously convicted of burglary not eligible for license under RCW Chapter 9.41 to carry concealed pistol.	6246
6224	Validity of appurtenant easements to portion former Tukwila substation site.	6247
6225	Competitive offering process; Implementation of Solid Waste/Ammonia Project.	6248
6226	City can condemn state school land not devoted to public use.	6249
6227	Providence Medical Center rezone (X-75-238) and prospective planned unit development.	6250
6228	Rental for Water Department use of 7th and 8th floors of City Light Building.	6251
6229	Operation of Lighting Department employee appliance sale store.	6252
6230	Pedestrian mall establishment procedure adjudicatory; property owner's claims.	6253
6231	Participation of elected Civil Service Commissioner in matters affecting department in which he is employed.	6254
6232	Bicycle riding in City Streets.	6255
6233	Reimbursement of travel expenses incurred by Library Board member.	6256
6234	Elliott Bay water patrol by Fire Department personnel.	6257
6235	Validity of selling surplus equipment at a City-established "store" either at fixed prices or by "silent" auction.	6258
6236	Don Armeni properties may be subject to restrictions re use as a marina.	6259
6237	Procedure for determining whether fire fighter candidate has met minimum medical and health standards.	6260
6238	Property owner in Local Improvement District may not construct at own expense and be reimbursed by L.I.D.	6261
6239	Fees for notarizing affidavits must be authorized by ordinance.	6262
6240	License Code—amusement device definition applies although coin mechanism removed.	6263
6241	SEPA compliance in connection with solid waste collection alternatives.	6264
6242	Authority of City to regulate houseboat moorage fees.	6265

- 7
- 6243 Use of City vehicles by Police reserve officers and military reservists assigned to City's Mobilization Designee Program.
 - 6244 Review of municipal indebtedness.
 - 6245 Jurisdiction of Purchasing Agent and Board of Public Works over improvements, maintenance and repairs.
 - 6246 "Revolving Code Repair Program."
 - 6247 Employee who retired for service after layoff notice not eligible for benefits under City's unemployment compensation program.
 - 6248 "Auto Flea Market," does not require City used automobile dealers' license.
 - 6249 Creation of a Utility Board would require a Charter amendment.
 - 6250 Variance application for access to property located east of 1002 - 37th Avenue East (Dr. O. J. Jensen, Owner).
 - 6251 "Released-matching" contributions to City Employees Retirement Fund for EEA and SMCP employees.
 - 6252 Local competitive bidding requirements not applicable to projects funded by "Section 312" Loans.
 - 6253 Review of certain contracts in connection with Seattle City Maintenance and Repair Levy.
 - 6254 Fire Code inspections at U of W.
 - 6255 Contract for water meter reading services would conflict with Article XVI of City Charter.
 - 6256 Employee Retirement Income Security Act of 1974 inapplicable to Police Pension Fund.
 - 6257 Recovered firearms may be auctioned to licensed dealer.
 - 6258 F.A.A. lease of Engineering Department property.
 - 6259 Establishment of electric rates to reduce demand.
 - 6260 Fair Campaign Practices Commission—Letter of report.
 - 6261 Effect of "successor" clause in collection contractors' collective bargaining agreements if City undertakes municipal garbage collection.
 - 6262 Dissipation or abuse under RCW 41.26.150 a question of fact for Firemen's Pension Board.
 - 6263 Widow's pension benefits cannot be paid to attorney under joint power of attorney signed by deceased fireman and his wife.
 - 6264 Statutes governing accounting system fiscal relationships.
 - 6265 Effect of 1976 Amendments to RCW 1.16.050 upon public holidays.

- 6243 Use of City vehicles by Police reserve officers and military reservists assigned to City's Mobilization Designee Program.
- 6244 Review of municipal indebtedness.
- 6245 Jurisdiction of Purchasing Agent and Board of Public Works over improvements, maintenance and repairs.
- 6246 "Revolving Code Repair Program."
- 6247 Employee who retired for service after layoff notice not eligible for benefits under City's unemployment compensation program.
- 6248 "Auto Flea Market," does not require City used automobile dealers' license.
- 6249 Creation of a Utility Board would require a Charter amendment.
- 6250 Variance application for access to property located east of 1002 - 37th Avenue East (Dr. O. J. Jensen, Owner).
- 6251 "Released-matching" contributions to City Employees Retirement Fund for EEA and SMCP employees.
- 6252 Local competitive bidding requirements not applicable to projects funded by "Section 312" Loans.
- 6253 Review of certain contracts in connection with Seattle Center Maintenance and Repair Levy.
- 6254 Fire Code inspections at U of W.
- 6255 Contract for water meter reading services would conflict with Article XVI of City Charter.
- 6256 Employee Retirement Income Security Act of 1974 inapplicable to Police Pension Fund.
- 6257 Recovered firearms may be auctioned to licensed dealers.
- 6258 F.A.A. lease of Engineering Department property.
- 6259 Establishment of electric rates to reduce demand.
- 6260 Fair Campaign Practices Commission—Letter of reprimand.
- 6261 Effect of "successor" clause in collection contractors' collective bargaining agreements if City undertakes municipal garbage collection.
- 6262 Dissipation or abuse under RCW 41.26.150 a question of fact for Firemen's Pension Board.
- 6263 Widow's pension benefits cannot be paid to attorney in fact under joint power of attorney signed by deceased fireman and his wife.
- 6264 Statutes governing accounting system fiscal relationships.
- 6265 Effect of 1976 Amendments to RCW 1.16.050 upon City holidays.

- 6266 Neighborhood hiring preferences in connection with City's Solid Waste/Ammonia Project.
- 6267 Deferred Compensation Plan.
- 6268 Garbage and rubbish collection contracts.
- 6269 Transfer of business and regulatory licenses on withdrawal of partner.
- 6270 Ordinance 104526, as amended, and the City's motor vehicle fleet insurance.
- 6271 Allocation of "supplemental or matching" Forward Thrust funds for Sand Point Park.
- 6272 Civil Service Rule 3.05b, which allows an employee "status" in a "class of a higher level" under specified conditions without taking a regular civil service examination, is invalid.
- 6273 Owners may plant and care for vegetation in undeveloped street area—subject to street use ordinance.
- 6274 Expenditures for and recovery of costs of abating hazardous conditions.
- 6275 Proposed participation agreement, WPPSS Nuclear Projects Nos. 4 and 5.
- 6276 Premium Deposit Fund at SAFECO may be used to pay City's share of insurance premium.
- 6277 Property dedicated by City for park purposes cannot be sold or traded.
- 6278 Administrative rules not adopted in the manner provided in the City's Administrative Code (Ordinance 102228).
- 6279 Claim filing requirement not invalidated by *Hunter* and *Jenkins* decisions.
- 6280 City not authorized to assist in construction of highway improvements outside City limits.
- 6281 Temporary closure of 28th Avenue East near East Ward Street not in conflict with Initiative Ordinance 103667.
- 6282 Religious day care center exempt from City business tax.
- 6283 Application of Utility Tax to Solid Waste/Methanol/Ammonia Project.
- 6284 Disclosure of home addresses of employees in specified bargaining unit not required by Initiative 276.
- 6285 Liability of City as to paramedics and other persons riding as observers in City vehicles during training programs.
- 6286 Financing for planning and rate structure for storm water utility.
- 6287 City liability for personal injury when employee's automobile is used on City business.

- 6288 Vehicle parking on planting strips.
- 6289 Application of Leasehold Excise Tax to insurance prepayments.
- 6290 Ordinance exempting position from classified service do violate Article XVI, § 12.
- 6291 Head Start Program—Parent participation required by s
- 6292 Proposed enactment of Seattle SEPA Ordinance.
- 6293 Reconsideration of matter by Fair Campaign Practices mission after reversal of earlier action.
- 6294 Statements of Intent to pay prevailing wages under 39.12.040 to be filed with Comptroller.
- 6295 Use of sick leave to care for newborn child.
- 6296 Accrued interest from investment of Forward Thrust proceeds.
- 6297 Different electric rates for non-resident customers.
- 6298 License fees apply to coin-operated amusement device University of Washington campus.
- 6299 Collection and remittance of the leasehold excise tax.
- 6300 Hearing Examiner may hold hearing on amendment of Construction Limit Line.
- 6301 Seattle Fire District No. 5 Fund.
- 6302 Unsolicited distribution of neighborhood newspapers and advertising material to residences.
- 6303 Proposed specifications for police impound towing co
- 6304 Legal requirements for maternity care and abortions in health care plan for employees, spouses, and dependents.
- 6305 Construction contract for the Indian Cultural Center at Lawton.
- 6306 Substandard lot exception inapplicable after sufficient assembled to obviate need for exception.
- 6307 Solid Waste/Ammonia Project; competitive offering and sale of pyrolytic gas.
- 6308 Demolition permit not subject to appeal under Sec. 2. Zoning Ordinance.
- 6309 Time incentives in public works contracts.
- 6310 Off-street parking covenant required in addition to joint parking agreement.
- 6311 City estopped to deny retirement benefits to one who City employment with assurance that membership in pension system continues under RCW 41.04.070 et seq.
- 6312 Investment of Housing Rehabilitation Trust monies in union.

ferences in connection with City's
 est.
 on.
 tion contracts.
 regulatory licenses on withdrawal of
 ended, and the City's motor vehicle
 and or matching" Forward Thrust
 which allows an employee "status"
 vel" under specified conditions with-
 service examination, is invalid.
 care for vegetation in undeveloped
 eet use ordinance.
 recovery of costs of abating hazardous
 agreement, WPPSS Nuclear Projects
 at SAFECO may be used to pay
 premium.
 ility for park purposes cannot be sold
 adopted in the manner provided in
 Code (Ordinance 102228).
 not invalidated by Hunter and Jen-
 assist in construction of highway im-
 limits.
 28th Avenue East near East Ward
 th Initiative Ordinance 103667.
 er exempt from City business tax.
 Tax to Solid Waste/Methanol/Am-
 addresses of employees in specified bar-
 ed by Initiative 276.
 paramedics and other persons riding as
 les during training programs.
 g and rate structure for storm water
 nal injury when employee's automobile
 ss.

- 6288 Vehicle parking on planting strips.
- 6289 Application of Leasehold Excise Tax to insurance premium payments.
- 6290 Ordinance exempting position from classified service does not violate Article XVI, § 12.
- 6291 Head Start Program—Parent participation required by statute.
- 6292 Proposed enactment of Seattle SEPA Ordinance.
- 6293 Reconsideration of matter by Fair Campaign Practices Commission after reversal of earlier action.
- 6294 Statements of Intent to pay prevailing wages under RCW 39.12.040 to be filed with Comptroller.
- 6295 Use of sick leave to care for newborn child.
- 6296 Accrued interest from investment of Forward Thrust bond proceeds.
- 6297 Different electric rates for non-resident customers.
- 6298 License fees apply to coin-operated amusement devices on University of Washington campus.
- 6299 Collection and remittance of the leasehold excise tax.
- 6300 Hearing Examiner may hold hearing on amendment of Seattle Construction Limit Line.
- 6301 Seattle Fire District No. 5 Fund.
- 6302 Unsolicited distribution of neighborhood newspapers and advertising material to residences.
- 6303 Proposed specifications for police impound towing contract.
- 6304 Legal requirements for maternity care and abortions in City's health care plan for employees, spouses, and dependents.
- 6305 Construction contract for the Indian Cultural Center at Fort Lawton.
- 6306 Substandard lot exception inapplicable after sufficient land assembled to obviate need for exception.
- 6307 Solid Waste/Ammonia Project; competitive offering process; sale of pyrolytic gas.
- 6308 Demolition permit not subject to appeal under Sec. 25.40 of Zoning Ordinance.
- 6309 Time incentives in public works contracts.
- 6310 Off-street parking covenant required in addition to joint use parking agreement.
- 6311 City estopped to deny retirement benefits to one who leaves City employment with assurance that membership in retirement system continues under RCW 41.04.070 et seq.
- 6312 Investment of Housing Rehabilitation Trust monies in credit union.

- 6313 Decrease of speed limits at crosswalks used predominately by elderly/handicapped citizens.
- 6314 Queen Anne Rezone Petition (C.F. 280568).
- 6315 Special Revolving Fund, Series "A" (as established by Ordinance 73509).
- 6316 Authority of Pike Place Market Historical Commission over building interiors; quorum and number of votes required.
- 6317 City may enact legislation requiring seller of real property to disclose to buyer the zoning classification and established "permitted uses" of the property.
- 6318 Creation of building violations and landlord-tenant conflicts court in Seattle-King County area.
- 6319 Applicability of state leasehold excise tax law to certain Seattle Center leases.
- 6320 Public access to fire inspection records.
- 6321 Union representatives appearing before Civil Service Commission.
- 6322 Employee retired for disability is receiving "wage continuation benefits" within meaning of Treasury regulation § 1.105-6.
- 6323 Leasehold excise tax on concession agreement for Woodland Park childrens' rides.
- 6324 Carpool parking application.
- 6325 Kent Highlands sanitary fill.
- 6326 Use of computer time by the University of Washington and Easter Seal Society.
- 6327 City cannot impose business and occupation tax on other municipal corporations.
- 6328 Disclosure of certain records pertaining to special police commissions.
- 6329 Participation as member of City Council in matters involving possible "personal interest."
- 6330 WAC 296-126, Employment Standards of Industrial Welfare Committee.
- 6331 Sale of "abandoned vehicles" under Seattle Police impoundment contracts.
- 6332 Board of Adjustment may extend conditional use permit which it issued.
- 6333 Applicability of § 131 of License Code requiring boiler operator's licenses, to state owned or operated facilities.
- 6334 Revisions in Forward Thrust Park Projects must be done in accordance with Sections 5 and 6 of King County Resolution 34571.

- 6335 Proposed contract for operation of sanitary land transfer stations.
- 6336 Alaskan Way trolley on railroad franchise tracks
- 6337 Application of Chapter 61, Laws of 1975-76, 2nd in the Pike Place Market.
- 6338 Applications for special police commissions are e public inspection and copying under RCW 42.17.
- 6339 University Sewer Improvement Forward Thrust S No. 3, Contract #5.
- 6340 Police Pension Board computation of excess b Marquis L. Cathey.
- 6341 Proposed County changes to Data Processing Inter ment.
- 6342 Westlake Project—Public use and necessity.
- 6343 Status of employees who were granted regular sta suant to invalid civil service rule and who did n sequent civil service examination.
- 6344 Recommendations of Department of Human Right of police towing contract.
- 6345 20 mph speed limit signs at marked school crossi
- 6346 Service credit under prior pension act may be res reemployment by repayment under rules of the Pension Board.
- 6347 Business and occupation tax and utility tax on cab subject to FCC limitations.
- 6348 Executive (closed) session of the City Council strategy for I-90 Freeway mediation proceedings ized by Open Public Meeting Act of 1971.
- 6349 Eligibility of police officers retired for service o to retain police authority under Ordinance 16374.
- 6350 Section 235 of Ordinance 48022 (License Code) Car Base Licenses.
- 6351 Award of public works contracts contingent up ment of Human Rights approval.
- 6352 Status of Permit #BN 50326 Safeco Building 430 evelt Way N.E.
- 6353 City authorized to use cable television access chan
- 6354 Building Superintendent has no authority to cond ing permits upon dedication of street right of wa
- 6355 Application of WAC 197-10-040, -170 and -190 nance 105735 to proposal for legislation.

- 6335 Proposed contract for operation of sanitary landfills and transfer stations.
- 6336 Alaskan Way trolley on railroad franchise tracks.
- 6337 Application of Chapter 61, Laws of 1975-76, 2nd Ex. Sess., in the Pike Place Market.
- 6338 Applications for special police commissions are exempt from public inspection and copying under RCW 42.17.310(1)(b).
- 6339 University Sewer Improvement Forward Thrust Sewer Project No. 3, Contract #5.
- 6340 Police Pension Board computation of excess benefits as to Marquis L. Cathey.
- 6341 Proposed County changes to Data Processing Interlocal Agreement.
- 6342 Westlake Project—Public use and necessity.
- 6343 Status of employees who were granted regular standing pursuant to invalid civil service rule and who did not take subsequent civil service examination.
- 6344 Recommendations of Department of Human Rights for award of police towing contract.
- 6345 20 mph speed limit signs at marked school crossings.
- 6346 Service credit under prior pension act may be restored upon reemployment by repayment under rules of the Firemen's Pension Board.
- 6347 Business and occupation tax and utility tax on cable television subject to FCC limitations.
- 6348 Executive (closed) session of the City Council to develop strategy for I-90 Freeway mediation proceedings not authorized by Open Public Meeting Act of 1971.
- 6349 Eligibility of police officers retired for service or disability to retain police authority under Ordinance 16374.
- 6350 Section 235 of Ordinance 48022 (License Code)—For-Hire Car Base Licenses.
- 6351 Award of public works contracts contingent upon Department of Human Rights approval.
- 6352 Status of Permit #BN 50326 Safeco Building 4301-09 Roosevelt Way N.E.
- 6353 City authorized to use cable television access channel.
- 6354 Building Superintendent has no authority to condition building permits upon dedication of street right of way.
- 6355 Application of WAC 197-10-040, -170 and -190, and Ordinance 105735 to proposal for legislation.

- 6356 Application of Comprehensive Sign Ordinance 102929 to existing sign.
- 6357 Construction, financing and use of "kiosks" in 5th Avenue.
- 6358 Public disclosure of License Code investigative reports.
- 6359 Compliance with SEPA when public hearing held on proposal.
- 6360 State disposal of surplus land in I-90 corridor.
- 6361 Authority to compel disclosure of lending information by nationally-chartered financial institutions.
- 6362 Regulation by City of parking facilities of other government agencies.
- 6363 Westlake Project—Applicability of "lease-lease back" statute (RCW Ch. 35.42).
- 6364 Westlake Project—Developer construction of garage under RCW Ch. 35.86 or RCW Ch. 35.86A.
- 6365 Authority of Board of Ethics to render advisory opinions.
- 6366 Taxation of off-reservation business activities of the Lummi Indian Tribe.
- 6367 CATV franchise applications public information as of time of filing.
- 6368 *Hearst Corporation v. City of Seattle, et al.*, U.S.D.C., W.D. Wash. No. C745-169S.
- 6369 Ordinance 102151 may be amended to permit direct sales of surplus property to other governmental agencies.
- 6370 Fire apparatus maintenance shop financed by Fire Protection Bond Fund must be devoted primarily to Fire Department uses.
- 6371 City is obligated under the State Accountancy Act to pay "true and full value" for computer services furnished by King County, but what constitutes "true and full value" is negotiable.
- 6372 Whether proposed plans for a Greenwood Senior Citizens Center involve a gift of money or property or loan of credit.
- 6373 The proposed agreement with the involved jurisdictions and the Washington State Highway Commission regarding I-90.
- 6374 Division of property pursuant to provisions of a will does not fall within scope of Ordinance 105636 (Subdivision Ordinance).
- 6375 Aquisition and development of the Home of the Good Shepherd site.
- 6376 Modifications of towing contracts.
- 6377 Proposed change in Civil Service Rule 3.05.

- 6378 Employment discrimination hearings.
- 6379 Power of City Council to make change Comprehensive Sign Ordinance 102929 to ment budget and Capital Improvement tion.
- 6380 Collection of the leasehold excise tax ing and use of "kiosks" in 5th Avenue.
- 6381 Administration of P-Patch Program License Code investigative reports. rights to program name. EPA when public hearing held on pro-
- 6382 Request that injunction action be bro plus land in I-90 corridor. establishment because of violations of disclosure of lending information by na- License Code. tional financial institutions.
- 6383 Rent from non-profit social service a of parking facilities of other government erty.
- 6384 Need for environmental assessment b Applicability of "lease-lease back" statute sion fees at Woodland Park Zoo and Ad
- 6385 City may exempt homeowner who Developer construction of garage under collection service or may charge him re RCW Ch. 35.86A.
- 6386 1% for Art Program. of Ethics to render advisory opinions.
- 6387 Subdivision requirements for commer Preservation business activities of the Lummi Ravenna Springs Park Supplemental.
- 6388 City's authority to sponsor Vanpool Pr applications public information as of time
- 6389 Payment of election filing fees by check ublic information as of time
- 6390 *Chavelle v. Chan et al.* *City of Seattle, et al., U.S.D.C., W.D.*
- 6391 Applicability of leasehold excise tax S. erty to social services organizations in may be amended to permit direct sales ices rendered. to other governmental agencies.
- 6392 Sale of property purchased by Police Maintenance shop financed by Fire Protec-
- 6393 Administrative Procedures Ordinance st be devoted primarily to Fire Depart-
- 6394 Interest on delinquent abatement asse Under the State Accountancy Act to pay to City. for computer services furnished by King
- 6395 State law requires City to report pub constitutes "true and full value" is nego- State Auditor.
- 6396 Possible recovery of back pay ordere plans for a Greenwood Senior Citizens bor under FLSA Amendments which of money or property or loan of credit.
- 6397 Application of statute of limitations ment with the involved jurisdictions and tions of Fair Campaign Practices Or Highway Commission regarding I-90.
- 6398 Granting subpoena powers to Publ pursuant to provisions of a will does Board. of Ordinance 105636 (Subdivision Or-
- 6399 Eligibility to receive concealed weap Development of the Home of the Good Shep- purchase a pistol, and effect of fede ng contracts. thereon of expungement of crim Civil Service Rule 3.05. RCW 9.95.240.

- 6378 Employment discrimination hearings.
- 6379 Power of City Council to make changes in Lighting Department budget and Capital Improvement Program after adoption.
- 6380 Collection of the leasehold excise tax by City departments.
- 6381 Administration of P-Patch Program—Protection of City's rights to program name.
- 6382 Request that injunction action be brought against panoram establishment because of violations of Section 330.6 of the License Code.
- 6383 Rent from non-profit social service agencies using City property.
- 6384 Need for environmental assessment before imposing admission fees at Woodland Park Zoo and Aquarium.
- 6385 City may exempt homeowner who does not use garbage collection service or may charge him regardless.
- 6386 1% for Art Program.
- 6387 Subdivision requirements for commercial leases in block 9 Ravenna Springs Park Supplemental.
- 6388 City's authority to sponsor Vanpool Project.
- 6389 Payment of election filing fees by check.
- 6390 *Chavelle v. Chan et al.*
- 6391 Applicability of leasehold excise tax to leases of City property to social services organizations in consideration of services rendered.
- 6392 Sale of property purchased by Police with investigative funds.
- 6393 Administrative Procedures Ordinance 102228.
- 6394 Interest on delinquent abatement assessments should be paid to City.
- 6395 State law requires City to report public utility tax receipts to State Auditor.
- 6396 Possible recovery of back pay ordered by Department of Labor under FLSA Amendments which were later invalidated.
- 6397 Application of statute of limitations to prosecution of violations of Fair Campaign Practices Ordinance (100241).
- 6398 Granting subpoena powers to Public Reinvestment Review Board.
- 6399 Eligibility to receive concealed weapons permit or permit to purchase a pistol, and effect of federal law thereunder; effect thereon of expungement of criminal record, pursuant to RCW 9.95.240.

- 6400 Whether health care contracts of City discriminate against chiropractors is question for Insurance Commissioner.
- 6401 Specifications for new electric lamp procurement.
- 6402 State Environmental Policy Act requirements—Solid Waste Ammonia Project—Preparation of supplemental EIS.
- 6403 Denying entrance to the Food Circus to males without shirts and people with bare feet.
- 6404 Purchase of portion of Greenwood Boy's Club for senior citizens' center.
- 6405 Condemnation for private portion of Solid Waste Ammonia development.
- 6406 Invitation to bid regarding investigation of City interfund relationships and compliance with BARS.
- 6407 Metro not authorized to condemn City land, regardless of use.
- 6408 Ownership of improvements under lease between City and Century International, Inc.
- 6409 Layoff of employee receiving disability benefits under Ordinance 90881; status of such employee's service retirement credit, dental plan coverage, family health care coverage, group life insurance, and vacation and sick leave.
- 6410 City-owned greenbelt area—liability re City activity.
- 6411 Ordinance 102151 may be amended to authorize the City Purchasing Agent to restrict surplus scrap sales to in-City or in-state dealers.
- 6412 Budget required to be balanced.
- 6413 Display of nativity scene in Police Department display case.
- 6414 Competitive offering processes, air separation plant; Solid Waste Ammonia Project.

IV.

ORDINANCES, RESOLUTIONS AND MISCELLANEOUS

During the year 1976 this department prepared 806 ordinances and 89 resolutions. In addition, the Law Department commenced a program of reviewing all ordinances and resolutions prepared by other departments. Approximately 100 ordinances and resolutions were reviewed under this program.

150 writs of garnishment against City employees were served upon the City. A total of 138 first answers were filed on writs of garnishment and 78 second answers to 30-day continuing lien garnishments were filed during the year. 12 garnishments were released

during the year before any action was required by the City. In addition, 41 orders of the Department of Social Services and 1 order of the State Department of Health and Welfare were served and answered.

503 surety bonds totaling \$30,263,914 were provided in addition to many deeds and other documents.

Legal papers served and filed during 1976, including writs, suits, summons and petitions, answers, appearances and subpoenas, totaling 6,435 in all. Process Server, Alfred H. Masar.

V.

PROSECUTION OF ORDINANCE VIOLATIONS

Municipal Court

During the year 1976, Assistants Robert B. Johnson, David S. Admire, Jack B. Regan, and Robert M. Elias handled calendars involving 65,831 defendants and 1,000 judgments of the Municipal Court resulting in the imposition of 1,000 forfeitures (including penalty assessments) in the amount of \$665,201.03.

Magisterial Hearing fines and ordinance violations (including penalty assessments) for the year amounted to \$828.65.

Also during the year 1976, Assistants Robert B. Johnson, Jack B. Regan, David S. Admire, Robert M. Elias, and Robert M. Oettinger completed legal proceedings involving violations of the Minimum Housing Code.

Municipal Court Appeals

Appeals from 1306 convictions in Municipal Court (including 412 Other Violations) were disposed of in Municipal Court in 1976, as follows: 377 appeals (251 Other Violations) were dismissed and remanded to the Municipal Court for enforcement of the original fines and sentences. 103 Other Violations convictions on appeal were entered. In 213 cases (167 Traffic, 46 Other Violations) the judge or jury found the defendants guilty after trial. In 20 Other Violations the defendants were found guilty. In 11 Traffic, 37 Other Violations the sentence was deferred. In 133 cases (53 Traffic, 80 Other Violations) charges were dismissed for insufficiency of evidence, successful completion of conditions of probation, or other causes.

care contracts of City discriminate against question for Insurance Commissioner.

new electric lamp procurement.

Insurance Policy Act requirements—Solid Waste Act—Preparation of supplemental EIS.

to the Food Circus to males without shirts are feet.

operation of Greenwood Boy's Club for senior

for private portion of Solid Waste Ammonia

and regarding investigation of City interfund compliance with BARS.

authorized to condemn City land, regardless of

improvements under lease between City and Regional, Inc.

employee receiving disability benefits under Ordinance status of such employee's service retirement plan coverage, family health care coverage, pension, and vacation and sick leave.

enbelt area—liability re City activity.

151 may be amended to authorize the City Department to restrict surplus scrap sales to in-City users.

to be balanced.

activity scene in Police Department display case.

refining processes, air separation plant; Solid Waste Project.

IV.

RESOLUTIONS AND MISCELLANEOUS

In 1976 this department prepared 806 ordinances and resolutions. In addition, the Law Department commenced the review of all ordinances and resolutions prepared by the department. Approximately 100 ordinances and resolutions were approved by this program.

Garnishment against City employees were served. A total of 138 first answers were filed on writs of habeas corpus. Second answers to 30-day continuing lien garnishments were filed during the year. 12 garnishments were released.

during the year before any action was required on the part of the City. In addition, 41 orders of the Department of Social and Health Services and 1 order of the State Department of Revenue to withhold and deliver were served and answered.

503 surety bonds totaling \$30,263,914 were examined and approved in addition to many deeds and other miscellaneous instruments.

Legal papers served and filed during 1976, including condemnation suits, summons and petitions, answers, judgments, notices of appearance and subpoenas, totaling 6,435 in all were handled by the Process Server, Alfred H. Masar.

V.

PROSECUTION OF ORDINANCE VIOLATIONS

Municipal Court

During the year 1976, Assistants Robert M. Elias, Robert B. Johnson, David S. Admire, Jack B. Regan, and Joseph T. Schlosser handled calendars involving 65,831 defendants in the four departments of the Municipal Court resulting in the imposition of fines and forfeitures (including penalty assessments) in the amount of \$1,665,201.03.

Magisterial Hearing fines and ordinance violations forfeitures (including penalty assessments) for the year amounted to \$4,253,828.65.

Also during the year 1976, Assistants Elizabeth A. Huneke, Robert B. Johnson, Jack B. Regan, David S. Admire, Richard S. Oettinger, and Robert M. Elias completed legal action on 279 cases involving violations of the Minimum Housing Code.

Municipal Court Appeals

Appeals from 1306 convictions in Municipal Court (894 Traffic, 412 Other Violations) were disposed of in King County Superior Court in 1976, as follows: 377 appeals (251 Traffic, 126 Other Violations) were dismissed and remanded to Municipal Court for enforcement of the original fines and sentences. In 487 cases (384 Traffic, 103 Other Violations) convictions on pleas of guilty were entered. In 213 cases (167 Traffic, 46 Other Violations) the court or jury found the defendants guilty after trial. In 48 cases (28 Traffic, 20 Other Violations) the defendants were found not guilty. In 48 cases (11 Traffic, 37 Other Violations) the sentencing of defendants was deferred. In 133 cases (53 Traffic, 80 Other Violations) all charges were dismissed for insufficiency of evidence, witnesses moving away, successful completion of conditions of deferred sentences, or other causes.

VI.

STATE SUPREME COURT CASES—1976

City v. Crockett, 87 Wn.2d 253

This was an appeal by the City following the dismissal of a criminal charge by the Superior Court on the grounds that the defendant did not receive a speedy trial as required by CrR 3.3. The City contended that CrR 3.3 did not apply to de novo trials in Superior Court and that both the decisional case law and the Rules of Court placed the burden upon the defendant to diligently prosecute the appeal. The State Supreme Court agreed with the City's position and reversed the decision of the Superior Court.

This case was tried by Assistant Charles D. Brown and argued by Assistant Richard S. Oettinger.

City v. Rainwater, 86 Wn.2d 567

This was an appeal by the defendant to the State Supreme Court following his conviction by a jury in Superior Court of negligent driving and driving while under the influence of an intoxicant. Defendant argued that because his breathalyzer test had not been administered in accordance with the provisions of the Washington Administrative Code, its admission by the Court was prejudicial error that required a new trial. The State Supreme Court affirmed the defendant's convictions, holding that the defendant had not been prejudiced by the admission into evidence of the breathalyzer test results.

This case was tried and argued by Assistant Walter L. Williams.

Lindsay (Brabant) v. City of Seattle, 86 Wn.2d 698

In 1972 the Civil Rights Act of 1964 was amended to bring City employees within the scope of Title VII of that Act. To comply, the City established an affirmative action program, the goal of which was to achieve equality of City employment opportunities for members of minority races and to increase the number of underrepresented minority persons employed by the City to correspond with their statistical composition in the available working force of the population of Seattle. To achieve the goals of the program, the City's Engineering Department adopted as an emergency measure a rule that "the first of every three vacancies resulting from retirement or termination in underrepresented classes will be filled with appropriate minorities." To permit such selective hiring, the Civil Service Commission adopted a rule by which a department head could request the certification of only the highest ranking eligible of a particular minority when necessary to implement the affirmative action program. Such "selective certification" could be made when requested by the department head and approved by the Secretary of the Civil

Service Commission and the Director of the City's Human Rights.

In 1973 the City Engineer requested that mind certified to fill a promotional position of Signal E man, and a minority eligible was thereafter app brought this action, alleging a violation of Article X the City Charter which provides that vacancies sh from a list of eligibles who constitute the top five eligible register.

The Supreme Court held that statistical info that the employee selection procedures used by the period of years, created a substantially disproport minority representation in public employment, wh prima facie case that the racial imbalance was the re natory examinations and practices. The Court hel voluntary action to eliminate the discriminatory eff practices was necessary, and that the conflict with A tion 9 of the City Charter was excused by the over of Title VII of the Civil Rights Act of 1964.

This case was tried and argued by Chief Ass Crandall.

Haslund v. Seattle, 86 Wn.2d 607

As reported in the Law Department's 1973 A State Supreme Court held in *Eastlake Community noke Associates*, 82 Wn.2d 475, that a building 1969 and twice renewed for the construction of a 1 condominium over shorelands in Lake Union was the intervening enactment of the State Environment [SEPA] mandated an evaluation by the City of pert tal factors before construction could be allowed to c

In its decision the Court stated:

"We cannot find that a litigant has any r ficiary of unlawful administrative conduct v interest will suffer, by the mere assertion th cial investment is in the balance. Defendant with full awareness that there were multiple stacles and cannot now claim relief simpl was expended in the face of an awareness a legal right to proceed."

and regarding the application of SEPA the Court

"Recognizing that there is no contest o no environmental evaluation has at any stag by the building department or that this p affects the environment, may the presence o

VI.

SUPREME COURT CASES—1976

253

by the City following the dismissal of a Superior Court on the grounds that the de speedy trial as required by CrR 3.3. The 3.3 did not apply to de novo trials in Su the decisional case law and the Rules of upon the defendant to diligently prosecute Supreme Court agreed with the City's position of the Superior Court.

by Assistant Charles D. Brown and argued setting.

2d 567

by the defendant to the State Supreme Court by a jury in Superior Court of negligent under the influence of an intoxicant. Defen this breathalyzer test had not been admin in the provisions of the Washington Admin ion by the Court was prejudicial error that e State Supreme Court affirmed the defen ng that the defendant had not been preju nto evidence of the breathalyzer test results. and argued by Assistant Walter L. Williams.

City of Seattle, 86 Wn.2d 698

rights Act of 1964 was amended to bring City ope of Title VII of that Act. To comply, the rrmative action program, the goal of which of City employment opportunities for mem and to increase the number of underrepres s employed by the City to correspond with ition in the available working force of the o achieve the goals of the program, the City's t adopted as an emergency measure a rule three vacancies resulting from retirement or presented classes will be filled with appropriate such selective hiring, the Civil Service Com- by which a department head could request y the highest ranking eligible of a particular y to implement the affirmative action pro- certification" could be made when requested d and approved by the Secretary of the Civil

Service Commission and the Director of the City's Department of Human Rights.

In 1973 the City Engineer requested that minority eligibles be certified to fill a promotional position of Signal Electrician Foreman, and a minority eligible was thereafter appointed. Plaintiff brought this action, alleging a violation of Article XVI, Section 9 of the City Charter which provides that vacancies shall be filled only from a list of eligibles who constitute the top five (or 25%) of the eligible register.

The Supreme Court held that statistical information indicated that the employee selection procedures used by the City had, over a period of years, created a substantially disproportionate level of minority representation in public employment, which made out a prima facie case that the racial imbalance was the result of discriminatory examinations and practices. The Court held that the City's voluntary action to eliminate the discriminatory effects of the City's practices was necessary, and that the conflict with Article XVI, Section 9 of the City Charter was excused by the overriding provisions of Title VII of the Civil Rights Act of 1964.

This case was tried and argued by Chief Assistant Gordon F. Crandall.

Haslund v. Seattle, 86 Wn.2d 607

As reported in the Law Department's 1973 Annual Report the State Supreme Court held in *Eastlake Community Council v. Roanoke Associates*, 82 Wn.2d 475, that a building permit issued in 1969 and twice renewed for the construction of a 128 unit, five-story condominium over shorelands in Lake Union was invalid, and that the intervening enactment of the State Environmental Protection Act [SEPA] mandated an evaluation by the City of pertinent environmental factors before construction could be allowed to continue.

In its decision the Court stated:

"We cannot find that a litigant has any right to be a beneficiary of unlawful administrative conduct where the public's interest will suffer, by the mere assertion that extensive financial investment is in the balance. Defendant started the project with full awareness that there were multiple, serious legal obstacles and cannot now claim relief simply because money was expended in the face of an awareness it might not have a legal right to proceed."

and regarding the application of SEPA the Court stated further:

"Recognizing that there is no contest over the facts that no environmental evaluation has at any stage been undertaken by the building department or that this project significantly affects the environment, may the presence of the pilings alone

frustrate the application of SEPA? They must not. It is far more consistent with the 'fullest extent possible' mandate of the act to delay operation at this stage, where real environmental protection may come about, than to permit the completion of this project."

Responding to the Supreme Court's decision, the City evaluated the environmental impact of the proposed condominium, determined that the impact would be adverse, and decided that the project should not be completed.

The developers sued the City for damages resulting from the issuance of the invalid building permit, and a King County Superior Court jury awarded judgment to the plaintiffs in the amount of \$2,896,534. The City appealed to the State Supreme Court and argued that the trial court had erred in six respects: failure to properly instruct the jury on theories of liability; failure to recognize governmental immunity; failure to bar the plaintiffs' claim by application of the statute of limitations; failure to find that the issuance of a conditional building permit was ultra vires; failure to find plaintiffs were collaterally estopped from bringing the suit; and failure to find that plaintiffs did not timely file their claim against the City.

The Supreme Court rejected all of the City's arguments; concluded ". . . as a matter of law that respondents suffered actual and appreciable harm as of July 11, 1973" [the date on which the first decision issued]; and affirmed the jury's verdict. The City's petition for rehearing was denied.

This case was tried by Assistant J. Roger Nowell and argued before the Supreme Court by Corporation Counsel John P. Harris and Assistant J. Roger Nowell.

Bitts Inc. et al. v. City, 86 Wn.2d 395

In this action the proprietors of several "peep-show" arcades sought to enjoin enforcement of a City ordinance requiring their premises to be arranged in such a manner that a person viewing a peep-show would be visible from the waist down. The ordinance had been enacted to reduce the frequent commission of lewd and indecent conduct which had been encouraged by the seclusion previously afforded peep-show viewers. The "peep-show" proprietors contended the ordinance violated their First Amendment right to freedom of speech. The State Supreme Court unanimously affirmed the trial court's dismissal of the case, stating that the ordinance had no effect upon the contents of the "peep-show" films being shown in the arcades, and that reasonable regulation of the physical arrangements of such establishments was a legitimate exercise of the City's police power.

This case was tried and argued by Assistant J. Roger Nowell.

In re Election of Members of The City Council et al., State Court No. 44103.

This was an action contesting the election held on November 1975 of five members of the Seattle City Council on the ground that the voting devices used in the City ("punch cards") did not record all votes cast as required by state law. The trial court denied the relief requested and held that the Council members were properly elected. The contestant's appeal to the State Supreme Court was dismissed by that Court for lack of prosecution.

This case was tried by Assistant Lawrence K. McDonnell.

VII.

STATE COURT OF APPEALS CASES—1975

Georges et al. v. Tudor et al. v. City, 16 Wn.App. 407

These consolidated cases arose out of the collapse of the Block Building in Pioneer Square on March 22, 1972. It was held that the City was negligent in inspecting the property and in issuing building permits for renovation work being performed on the building by defendant Tudor at the time of the collapse. The Superior Court ruled that the City was not negligent in either respect and was not liable to the defendant. The Court of Appeals affirmed the trial court's decision on the ground that municipal building permits issued and inspections performed thereunder, are issued to protect the general public only and do not serve as a warranty to an owner of property as to the quality of his structure.

This case was tried and argued by Assistant J. Roger Nowell.

Platt Electric Supply, Inc. v. City and Graybar Electric Corporation, 16 Wn.App. 265

This was an action to enjoin the City from implementing the Purchasing Agent's contract for the City's 1975 electric lighting contracts. The complaint alleged that the City's Purchasing Agent had failed to award the bid to plaintiff as the lowest bidder under Ordinance 102151, which provides for award of contracts on a "lowest and best" bidder. The King County Superior Court granted the requested injunction which was reversed by the Court of Appeals which held that the Purchasing Agent failed to follow competitive bidding procedures and that the purchase contract for electric lamps was void. The City's petition for review was denied by the State Supreme Court.

This case was tried and argued by Assistant Lawrence K. McDonnell; Assistant Ross A. Radley assisted in the argument.

of SEPA? They must not. It is far more consistent with the 'fullest extent possible' mandate of SEPA to require cooperation at this stage, where real environmental consequences may come about, than to permit the commission of such an act."

On appeal from the Supreme Court's decision, the City evaluated the potential impact of the proposed condominium, determined whether the project was adverse, and decided that the project was not adverse.

The City for damages resulting from the issuance of a building permit, and a King County Superior Court judgment to the plaintiffs in the amount of \$100,000. The City appealed to the State Supreme Court and argued that the trial court had erred in six respects: failure to properly allocate the burden of liability; failure to recognize government immunity to bar the plaintiffs' claim by application of the doctrine of sovereign immunity; failure to find that the issuance of a condominium permit was ultra vires; failure to find plaintiffs were not barred from bringing the suit; and failure to find that the City was liable for their claim against the City.

The Supreme Court rejected all of the City's arguments; concluded that the City was liable under the law that respondents suffered actual and substantial injury on July 11, 1973" [the date on which the first building permit was issued]. The City's petition for review was denied. The City's petition for review was denied.

This case was tried by Assistant J. Roger Nowell and argued before the Supreme Court by Corporation Counsel John P. Harris and Assistant Corporation Counsel John P. Harris and Assistant Corporation Counsel John P. Harris.

16 Wn.2d 395

This case involved the proprietors of several "peep-show" arcades who sought an injunction against the enforcement of a City ordinance requiring their proprietors to erect a screen in such a manner that a person viewing a peep-show would be visible from the waist down. The ordinance had the effect of prohibiting the frequent commission of lewd and indecent acts. The ordinance was encouraged by the seclusion previously afforded by the proprietors. The "peep-show" proprietors contended that the ordinance violated their First Amendment right to freedom of expression. The Supreme Court unanimously affirmed the trial court's decision, stating that the ordinance had no effect on the First Amendment right of "peep-show" films being shown in the arcades. The ordinance was a legitimate exercise of the City's police power.

This case was tried and argued by Assistant J. Roger Nowell.

In re Election of Members of The City Council et al., State Supreme Court No. 44103.

This was an action contesting the election held on November 4, 1975 of five members of the Seattle City Council on the grounds that the voting process used in the City ("punch cards") did not record all votes cast as required by state law. The trial court denied the relief requested and held that the Council members were properly elected. The contestant's appeal to the State Supreme Court was dismissed by that Court for lack of prosecution.

This case was tried by Assistant Lawrence K. McDonell.

VII.

STATE COURT OF APPEALS CASES—1976

Georges et al. v. Tudor et al. v. City, 16 Wn.App. 407

These consolidated cases arose out of the collapse of the Olympic Block Building in Pioneer Square on March 22, 1972. It was alleged that the City was negligent in inspecting the property and in issuing building permits for renovation work being performed on the building by defendant Tudor at the time of the collapse. The Superior Court ruled that the City was not negligent in either respect and was not liable to the defendant. The Court of Appeals affirmed the lower court's decision on the ground that municipal building codes, and permits issued and inspections performed thereunder, are intended to protect the general public only and do not serve as a warranty to an owner of property as to the quality of his structure.

This case was tried and argued by Assistant J. Roger Nowell.

Platt Electric Supply, Inc. v. City and Graybar Electric Co., 16 Wash. App. 265

This was an action to enjoin the City from implementation of a Purchasing Agent's contract for the City's 1975 electric lamp requirements. The complaint alleged that the City's Purchasing Agent illegally failed to award the bid to plaintiff as the lowest bidder, under Ordinance 102151, which provides for award of contracts to the "lowest and best" bidder. The King County Superior Court's denial of the requested injunction was reversed by the Court of Appeals, which held that the Purchasing Agent failed to follow required competitive bidding procedures and that the purchase contract for electric lamps was void. The City's petition for review is pending before the State Supreme Court.

This case was tried and argued by Assistant Lawrence K. McDonell; Assistant Ross A. Radley assisted in the argument.

City v. Loutsis Investment Co., 16 Wn.App. 158

The Pike Place Urban Renewal Plan designated the Cliff House Hotel and its site as property to be acquired and rehabilitated. In condemnation proceedings instituted by the City, the hotel's owners contended that acquisition was unnecessary, that the condemnation was unauthorized because the owners were willing and able to redevelop the property in accordance with said Plan, and that the City was required to give the owners an opportunity to do so before condemning the property. The Court of Appeals concluded, among other things, that (1) this state's urban renewal law and the City ordinances establishing the Pike Place Urban Renewal Project are constitutional; (2) the condemnation of the Cliff House Hotel did not violate the equal protection of the laws clause of the federal constitution or the privileges and immunities clause of the state constitution; (3) the adjudication of public use and necessity was a proper one, the Pike Project is a public use and the taking of the Cliff House Hotel was, in contemplation of the law, a necessary taking; and (4) the state's Urban Renewal Law, the City's ordinances, and [Pike Place] Urban Renewal Plan do not mandate owner participation in the redevelopment and do not give the displaced owner a veto power or right of first refusal in the redevelopment of the property. The Court of Appeals denied the hotel owner's petition for reconsideration.

The case was tried and argued by Assistants James B. Howe and G. Grant Wilcox.

Imperial Drum & Bugle Corps et al. v. City, 14 Wn.App. 845

In this action several organizations conducting bingo games challenged the validity of a City ordinance imposing a tax upon the revenues received from the games. The ordinance was effective September 21, 1973, but operated retrospectively to tax revenues received as of August 13, 1973, the date the ordinance levying the gambling tax was enacted by the City. The trial court dismissed the plaintiffs' complaints and upheld the ordinance. This decision was affirmed by the Court of Appeals which found that the ordinance was not vague or ambiguous and that it neither unconstitutionally impaired the obligation of contracts nor deprived the plaintiff of its property by impinging on its state-issued licenses where said licenses had been issued pursuant to a statute authorizing municipal taxation of gambling revenues. The Court of Appeals further held that retrospective application of a tax does not violate due process of law when the tax is not novel in nature, its retrospective application is of short duration, and its application was to be anticipated by the taxpayers.

Assistant J. Roger Nowell tried and argued this case.

Frye Investment Co. v. City, 14 Wn.App. 702

This case involved a street widening and improvement undertaken by the City in connection with the construction of the King County Domes Stadium. An adjacent property owner filed the environmental impact statement prepared for the project was inadequate and sued to have the project stopped. The trial court dismissed the plaintiff's complaint on the City motion for summary judgment. The Court of Appeals affirmed that decision because the impact statement was adequate, and that the City's decision to proceed with the project was within its authority and not arbitrary or capricious.

City v. Butler, 16 Wash. App. 1023 (unpublished decision)

In this case defendant sought a de novo trial in Superior Court following conviction in Municipal Court of a traffic violation. Defendant failed to file a notice of appeal within 10 days of conviction as required by JCrR 6.01 and, on such ground, the Superior Court dismissed his appeal and remanded the case to Municipal Court. The defendant's argument that he had a right to be heard on appeal was subsequently rejected by the Court of Appeals, which affirmed the dismissal of defendant's appeal by the Superior Court.

This case was tried by Assistant Elizabeth A. Huneke and argued by Assistant Andre S. Wooten.

City v. Goodwin, 15 Wn.App. 1024 (unpublished decision)

City v. Parker, 14 Wn.App. 1035 (unpublished decision)

In both of these cases the Superior Court had granted a writ of habeas corpus for de novo trials following Municipal Court convictions. The defendants' failure to serve a copy of the Notice of Appeal on the prosecutor, as required by JCrR 6.01(b). On appeal, the defendants contended, among other things, that:

- (1) The action of the Supreme Court in considering similar issues in another case meant that the defendant's position was untenable; (2) The requirements of the writ were only designed to acquire personal jurisdiction over the defendant. The City must demonstrate prejudice from the conviction.

The Court of Appeals rejected all of these contentions in separate opinions, affirmed the Superior Court's dismissal of the writ by the defendants. The Supreme Court denied defendant's petition for review.

Assistants Elizabeth A. Huneke, Walter L. Williams, and S. Oettinger participated in the trial and argument.

Investment Co., 16 Wn.App. 158

The Urban Renewal Plan designated the Cliff House Hotel property to be acquired and rehabilitated. In proceedings instituted by the City, the hotel's owners argued that the condemnation was unnecessary, that the condemnation was in accordance with said Plan, and that the City should give the owners an opportunity to do so before condemnation. The Court of Appeals concluded, among other things, that the state's urban renewal law and the City ordinance authorizing the Pike Place Urban Renewal Project are constitutional. The condemnation of the Cliff House Hotel did not violate the protection of the laws clause of the federal constitution or the privileges and immunities clause of the state constitution. The taking of public use and necessity was a proper taking of the property for a public use and the taking of the Cliff House Hotel was a proper application of the law, a necessary taking; and (4) the Urban Renewal Law, the City's ordinances, and the Urban Renewal Plan do not mandate owner participation in the redevelopment of the property. The Court of Appeals denied the hotel owner's petition for reconsideration.

This case was argued by Assistants James B. Howe and

Amateur Athletic Union of the United States et al. v. City, 14 Wn.App. 845

The Amateur Athletic Union of the United States and other national organizations conducting bingo games challenged a City ordinance imposing a tax upon the revenues from the bingo games. The ordinance was effective September 1, 1973, and was applied retroactively to tax revenues received from September 1, 1972, to the date the ordinance levying the gambling tax was enacted. The trial court dismissed the plaintiffs' challenge to the ordinance. This decision was affirmed by the Court of Appeals, which found that the ordinance was not vague and that it neither unconstitutionally impaired the plaintiffs' property nor deprived the plaintiff of its property by imposing a tax on licenses where said licenses had been issued before the ordinance authorizing municipal taxation of gambling revenues. The Court of Appeals further held that retrospective application of the ordinance violated due process of law when the tax is not applied retroactively to licenses of short duration, and that the tax should be anticipated by the taxpayers.

This case was argued by Nowell.

Frye Investment Co. v. City, 14 Wn.App. 702

This case involved a street widening and improvement project undertaken by the City in connection with the construction of the King County Domed Stadium. An adjacent property owner claimed the environmental impact statement prepared for the project was inadequate and sued to have the project stopped. The trial court dismissed the plaintiff's complaint on the City motion for summary judgment. The Court of Appeals affirmed that decision, finding that the impact statement was adequate, and that the City's decision to proceed with the project was within its authority and was not arbitrary or capricious.

City v. Butler, 16 Wash. App. 1023 (unpublished decision)

In this case defendant sought a de novo trial in Superior Court following conviction in Municipal Court of a traffic code violation. Defendant failed to file a notice of appeal within 10 days of such conviction as required by JCrR 6.01 and, on such ground, the Superior Court dismissed his appeal and remanded the case to the Municipal Court. The defendant's argument that he had an inherent right to be heard on appeal was subsequently rejected by the Court of Appeals, which affirmed the dismissal of defendant's appeal by the Superior Court.

This case was tried by Assistant Elizabeth A. Huneke and argued by Assistant Andre S. Wooten.

City v. Goodwin, 15 Wn.App. 1024 (unpublished decision)

City v. Parker, 14 Wn.App. 1035 (unpublished decision)

In both of these cases the Superior Court had dismissed appeals for de novo trials following Municipal Court convictions because of the defendants' failure to serve a copy of the Notice of Appeal upon the prosecutor, as required by JCrR 6.01(b). On appeal the defendants contended, among other things, that,

- (1) The action of the Supreme Court in declining to consider similar issues in another case meant that the City's position was untenable;
- (2) The requirements of JCrR 6.01 were only designed to acquire personal jurisdiction; and
- (3) The City must demonstrate prejudice from the defect.

The Court of Appeals rejected all of these contentions and, in separate opinions, affirmed the Superior Court's dismissal of each appeal by the defendants. The Supreme Court denied defendants' petitions for review.

Assistants Elizabeth A. Huneke, Walter L. Williams, and Richard S. Oettinger participated in the trial and argument of these cases.

Wolff v. Barker et al., 14 Wn.App. 1027 (unpublished decision)

The plaintiff in this case attempted to collect an unliquidated claim by filing a writ of garnishment against the City and two of its police officers. The Writ was quashed by the trial court on the ground that a claim for unliquidated damages against the City cannot be the basis of a writ of garnishment against the City. The Court of Appeals affirmed the trial court's action. The plaintiffs' petition for review was denied by the Supreme Court.

The case was tried and argued by Assistant James G. Blair.

Wolff v. Blair, 14 Wn.App. 1027 (unpublished decision)

The respondent in the action, an Assistant Corporation Counsel, was sued by the plaintiff in *Wolff v. Barker* for alleged misrepresentation in failing to reveal the fact he was representing all municipal defendants in the *Barker* case, thereby wrongfully causing the frustration of plaintiff's rights against the City's co-defendants in *Barker*, two police officers. The trial court's dismissal of the suit for failure to state a claim was affirmed by the Court of Appeals. The Supreme Court denied plaintiff's petition for review.

The case was tried and argued by Assistant Charles R. Nelson.

Drumheller v. City, Fremon Construction Co. et al., Court of Appeals No. 4752-I

The plaintiff sought in this case a declaratory judgment that Section 24.48.020 of the Zoning Ordinance of the City (Ordinance 86300), which allows more intensive uses in "transition" lots in "R" zones, is unconstitutional and void, and that the Superintendent of Buildings could not issue a building permit for the construction of triplexes on "transition" lots zoned RS-7200. The Superior Court granted the City's motion for summary judgment, holding that Section 26.48.020 of the Zoning Ordinance as applied by the City is constitutional, and dismissed the City and its Building Department officials as defendants. The appeal of the plaintiffs to the Court of Appeals was dismissed on the agreement of the parties.

The case was tried by Assistant Lawrence K. McDonell.

West Waterway Lumber Co. v. City, Court of Appeals No. 3851-I

This was an action to recover expenses for the salvage and scraping of plaintiff's ship to the extent such expenses were increased by the alleged negligence of the Fire Department in allowing the ship to sink while putting out a fire aboard it. The jury found that while the negligence of both parties contributed to the injury only 7% of such negligence was attributable to the plaintiff. The City's appeal was dismissed by agreement of the parties and the case settled.

The case was tried by Assistant Lawrence K. McDonell.

City v. James Lee Verdon, 15 Wn.App. 1009 (unpublished)

Defendant, convicted of "aiding and abetting indecent exposure" in violation of Seattle Criminal Code Section 12.11.220, was sentenced to 360 days in jail and a \$400 fine, with incarceration suspended on condition the defendant have no further trouble. His original conviction was affirmed by the Washington Supreme Court in *Seattle v. Marshall*, 83 Wn.2d 665 (1975). The defendant returned to court on the City's petition to revoke his probation on the ground that he had again been convicted of the same offense in Municipal Court. The trial court revoked probation and ordered the defendant to serve 360 days in jail. The Court of Appeals affirmed and held that granting and revocation of probationary status is in the discretion of the trial court and further for the record in the instant case supported the trial judge's decision. The Supreme Court has denied a petition for review filed by the defendant.

This case was argued by Assistant James G. Blair.

Bjorseth et al. v. City of Seattle et al., 15 Wn.App. 797

Plaintiffs were nonresident City employees who contended that the City could not use residency as a criterion in determining order of lay-off for City employees and that the City violated residents preference in promotional examinations. The Court of Appeals agreed with the trial court that RCW 35.22.010 provides that nonresidence of a civil service employee in a city or town "shall not be grounds for discharge of any regular civil service employee otherwise qualified . . .," barred the City from laying off nonresidents prior to laying off residents, thereby supporting the City's argument that a layoff was not a "discharge" within the meaning of the statute. Additionally, the Court of Appeals affirmed the contention of plaintiffs that the City should be prohibited from granting residency preferences in promotional examinations. The court so doing stated that the nonresident employees had no right to be promoted "to any charter provision or civil service rule which utilizes a preference system for promotion based on residency." On this latter issue, the Court of Appeals has granted a rehearing.

This case was tried and argued by Assistant E. Neal

Wn.App. 1027 (unpublished decision)

The plaintiff attempted to collect an unliquidated judgment against the City and two of its defendants. The judgment was quashed by the trial court on the ground that unliquidated damages against the City cannot be the basis for garnishment against the City. The Court of Appeals affirmed the trial court's action. The plaintiffs' petition for review was denied by the Supreme Court. This case was argued by Assistant James G. Blair.

Wn.App. 1027 (unpublished decision)

The plaintiff, an Assistant Corporation Counsel, brought a writ of mandamus in *Wolff v. Barker* for alleged misrepresentation of the fact he was representing all municipal employees in the case, thereby wrongfully causing the frustration of the City's co-defendants in *Barker*, and the trial court's dismissal of the suit for failure to state a claim. The Court of Appeals affirmed the trial court's decision. The Supreme Court denied a petition for review.

This case was argued by Assistant Charles R. Nelson.

Seattle Construction Co. et al., Court of Appeals

In this case a declaratory judgment that Section 12.25.010 of the City's Zoning Ordinance (Ordinance 122000) is unconstitutional and void, and that the Superintendent of Public Works should issue a building permit for the construction of a building on lots zoned RS-7200. The Superior Court granted summary judgment, holding that Section 12.25.010 of the Zoning Ordinance as applied by the City is unconstitutional. The City and its Building Department appealed the judgment to the Court of Appeals. The Court of Appeals affirmed the agreement of the parties.

This case was argued by Assistant Lawrence K. McDonell.

City of Seattle v. City, Court of Appeals No. 3851-I

The plaintiff sought to recover expenses for the salvage and scrap of a ship. The extent such expenses were increased by the actions of the Fire Department in allowing the ship to burn and a fire aboard it. The jury found that while the Fire Department contributed to the injury only 7% of the total damage, the City's contribution was attributable to the plaintiff. The City's appeal was denied. The case was settled.

This case was argued by Assistant Lawrence K. McDonell.

City v. James Lee Verdon, 15 Wn.App. 1009 (unpublished decision)

Defendant, convicted of "aiding and abetting indecent exposure" in violation of Seattle Criminal Code Section 12.11.220, received a sentence of 360 days in jail and a \$400 fine, with incarceration "suspended on condition the defendant have no further trouble." After his original conviction was affirmed by the Washington State Supreme Court in *Seattle v. Marshall*, 83 Wn.2d 665 (1974), he was returned to court on the City's petition to revoke his probation on the ground that he had again been convicted of the same offense in Municipal Court. The trial court revoked probation and ordered the defendant to serve 360 days in jail. The Court of Appeals affirmed and held that granting and revocation of probationary status are matters in the discretion of the trial court and further found that the record in the instant case supported the trial judge's decision. The Supreme Court has denied a petition for review filed by the defendant.

This case was argued by Assistant James G. Blair.

Bjorseth et al. v. City of Seattle et al., 15 Wn.App. 797

Plaintiffs were nonresident City employees who contended that the City could not use residency as a criterion in determining the order of lay-off for City employees and that the City improperly allowed residents preference in promotional examinations. The Court of Appeals agreed with the trial court that RCW 35.21.200, which provides that nonresidence of a civil service employee of a city or town "shall not be grounds for discharge of any regularly appointed civil service employee otherwise qualified . . .," barred the City from laying off nonresidents prior to laying off residents, thereby rejecting the City argument that a layoff was not a "discharge" within the meaning of the statute. Additionally, the Court of Appeals rejected the contention of plaintiffs that the City should be prohibited from granting residency preferences in promotional examinations and in so doing stated that the nonresident employees had not referred the court "to any charter provision or civil service rule wherein the City utilizes a preference system for promotion based on residence." On this latter issue, the Court of Appeals has granted a rehearing.

This case was tried and argued by Assistant E. Neal King.

VIII.
NOTEWORTHY SUPERIOR COURT CASES—1976

Hui-Sung Chen et al. v. City
King County Cause No. 805050

Plaintiffs (who had been parties in an earlier case, *Hsieh et al. v. Civil Service Commission of The City of Seattle*, 79 Wn.2d 529, 488 P.2d 515 (1971), in which the Supreme Court invalidated City Charter provisions restricting civil service status to United States citizens and ordered that the plaintiffs be given retroactive civil service status to November 1, 1969) sought in this later case (1) to enjoin the City from laying them off and (2) to establish civil service seniority credit as of their original employment date. The Superior Court granted the City's motion for summary judgment on the grounds that the *Hsieh* case not only had decided the rights of the parties in this later suit, but also estopped plaintiffs from claiming service credit for their employment prior to November 1, 1969. The plaintiffs have appealed this decision to the Court of Appeals, where the case is now pending.

University District Community Council v. City and SAFECO Insurance Co., King County Cause No. 793169

In this case the plaintiffs sought declaratory and injunctive relief as well as \$100,000 damages from the City's Superintendent of Buildings for allegedly interfering with their right to enjoy a comfortable life and for decreasing the value of their property by granting a building permit to defendant SAFECO. The Superior Court found that the building permit issued by the City was not unlawful, that the project's environmental impact statement was adequate, and that the City had complied with the State Environmental Policy Act and its own building and zoning ordinances in issuing a permit to build. The plaintiffs have appealed that decision to the State Supreme Court where the matter is pending.

Steinman v. City
King County Cause No. 769756

This lawsuit arose out of the City's denial of the plaintiff's application for a permit to build a dry boat moorage requiring a solid 50 foot-wide fill stretching 125 feet into Puget Sound off West Seattle, a "substantial development" under the Shoreline Management Act. The City's action was upheld by the State Shorelines Hearings Board. On appeal, the Superior Court held that because of its scope, the proposed development constituted a major action under the State Environmental Policy Act which, because of its effect on the environment, would violate the policy of the Shorelines Management Act;

and that the Shorelines Hearings Board had not acted as capriciously in affirming the City's denial of the request.

Globe Tire v. City

King County Cause No. 798957

The plaintiff in this case sued the City for lost profit from the awarding to another bidder of the City's tire purchase. The trial court held, on the City's motion for summary judgment, that the City Purchasing Agent's bidding procedures were

City et al. v. American League et al.

Snohomish County Cause No. 116038

This cause arose out of the departure from Seattle of the American League baseball team after playing only a single season in the City. The City's claim against the defendant Seattle Pilot Club for \$585,000 in separate proceedings in federal bankruptcy court. The City also settled with the concessionaire defendants on their agreement to pay City trial preparation expenses and to make certain payments to the State. After the trial was moved to Snohomish County at the request of the remaining defendants and the League agreed to have a major league baseball team based in Seattle during the 1977 season, the parties agreed to the case.

City v. William E. Griffin

King County Cause No. 799261

After the City prevailed against defendant in Municipal Court on a charge of failure to comply with a Notice of Violation, the defendant to correct violations under Seattle Ordinance 25.05.010 (Housing Code), defendant appealed to Superior Court for a *de novo* where a jury found that defendant had failed to comply with the ordinance. The Court determined that there was no limitation in Superior Court on the amount of the judgment awarded by the City for defendant's continuing violation and imposition of a civil penalty in the sum of One Thousand Five Hundred Dollars (\$1,500). This was the first case where a civil penalty excise was imposed.

Warner v. Petty

King County Cause No. 814944

Petitioner obtained a writ of certiorari directing the defendant of Buildings to produce records of the hearing held under Section 27.36.020 of Seattle Ordinance 99112 (Housing Code). Superior Court quashed the writ on the grounds of lack of standing. Petitioner appealed to the Court of Appeals which is pending. (Court of Appeals No. 5028-I)

III.

FOR COURT CASES—1976

in an earlier case, *Hsieh et al. v. City of Seattle*, 79 Wn.2d 529, 488 P.2d 1001. The Supreme Court invalidated City civil service status to United States plaintiffs be given retroactive civil service credit sought in this later case (1) to enjoin the City and (2) to establish civil service seniority from the date of employment date. The Superior Court granted summary judgment on the grounds that the City had decided the rights of the parties in this case. The plaintiffs from claiming service credit from November 1, 1969. The plaintiffs have appealed to the Court of Appeals, where the case is pending.

City Council v. City and

County Cause No. 793169

The plaintiffs sought declaratory and injunctive relief from the City's Superintendent of Buildings to enforce with their right to enjoy a comfortable and safe environment of their property by granting a building permit. The Superior Court found that the City's action was not unlawful, that the project's environmental impact was adequate, and that the City had complied with the Environmental Policy Act and its own building code in issuing a permit to build. The plaintiffs have appealed to the State Supreme Court where the case is pending.

56

the City's denial of the plaintiff's application for a dry boat moorage requiring a solid structure 25 feet into Puget Sound off West Seattle. The "dry boat moorage" under the Shoreline Management Act was upheld by the State Shorelines Hearings Board. The Superior Court held that because of its scope, the project constituted a major action under the State Shorelines Management Act, which, because of its effect on the environment, is subject to the provisions of the Shorelines Management Act;

and that the Shorelines Hearings Board had not acted arbitrarily or capriciously in affirming the City's denial of the requested permit.

Globe Tire v. City

King County Cause No. 798957

The plaintiff in this case sued the City for lost profits caused by the awarding to another bidder of the City's tire purchase contract. The trial court held, on the City's motion for summary judgment, that the City Purchasing Agent's bidding procedures were proper.

City et al. v. American League et al.

Snohomish County Cause No. 116038

This cause arose out of the departure from Seattle of an American League baseball team after playing only a single season in the City. The City's claim against the defendant Seattle Pilots was settled for \$585,000 in separate proceedings in federal bankruptcy court; the City also settled with the concessionaire defendants prior to trial, on their agreement to pay City trial preparation expenses (\$32,500) and to make certain payments to the State. After the trial had been moved to Snohomish County at the request of the remaining defendants and the League agreed to have a major league baseball team based in Seattle during the 1977 season, the parties agreed to dismiss the case.

City v. William E. Griffin

King County Cause No. 799261

After the City prevailed against defendant in Municipal Court on a charge of failure to comply with a Notice of Violation ordering defendant to correct violations under Seattle Ordinance 99112 (Housing Code), defendant appealed to Superior Court for trial *de novo* where a jury found that defendant had failed to comply with the ordinance. The Court determined that there was no jurisdictional limitation in Superior Court on the amount of the judgment sought by the City for defendant's continuing violation and imposed a civil penalty in the sum of One Thousand Five Hundred Dollars (\$1,500.-00). This was the first case where a civil penalty exceeding \$1,000 was imposed.

Warner v. Petty

King County Cause No. 814944

Petitioner obtained a writ of certiorari directing the Superintendent of Buildings to produce records of the hearing held pursuant to Section 27.36.020 of Seattle Ordinance 99112 (Housing Code). The Superior Court quashed the writ on the grounds of lack of jurisdiction. Petitioner appealed to the Court of Appeals where the matter is pending. (Court of Appeals No. 5028-I)

*Margaret Coughlin v. City et al. and United Indians
of All Tribes Foundation*

King County Cause No. 786873

The Department of Parks and Recreation had issued a "declaration of no significant impact" under the State Environmental Policy Act (SEPA) after concluding that development of the Indian Cultural Center (a "major action" under SEPA) at Discovery Park would not pose any significant adverse environmental effects either upon the park or the surrounding Magnolia community. Plaintiff, a resident of the area, contended that such declaration was inadequate and that an environmental impact statement (EIS) with attendant reviews, etc. was required. The court, after reviewing the administrative record upheld the City's decision to issue a "declaration of no significant impact" and quashed the writ of certiorari. Plaintiff has appealed to the Court of Appeals. (Court of Appeals No. 4542-I)

Margaret Coughlin v. City and Lockview Rest Home

King County Cause No. 793499

Plaintiff, a Magnolia resident, sought review by Superior Court of a Board of Adjustment approval of a zoning variance granted to Lockview under Section 26.54.030 of the Zoning Code to allow Lockview to make certain structural improvements, contending that a variance could not be granted to extend a nonconforming use. The court, following review of the Board's record, upheld the action of the Board, dismissed the complaint and quashed the writ. Plaintiff has appealed and the matter is now pending in the Court of Appeals. (Court of Appeals No. 4554-I)

Autoland, Inc. et al. v. City, et al.

King County Cause No. 783396

In this case, Plaintiff automobile dealers, contended that the Comprehensive Sign Ordinance No. 102929 (regulating construction, installation and maintenance of signs), was unconstitutionally vague and discriminatory in its application as to the several classes of persons affected. Plaintiffs also alleged the City had failed to comply with State Environmental Policy Act in failing to issue an environmental impact statement prior to adoption of the ordinance. The court held that the City had not complied with SEPA and entered judgment declaring the ordinance to be invalid on that ground. The court did not rule upon the constitutional issues presented. The Building Department subsequently issued a "declaration of no significant impact" and re-adoption of the Comprehensive Sign Ordinance as a part of the City's new and revised Building Code is pending before the City Council.

IX.
ANTITRUST CASES—1976

During 1976 the City participated as a class and received the sum of \$17,000 in antitrust litigation in pipe, gypsum, water meters, motor vehicles, city bus and baseball franchises.

Additional cases are still pending.

X.
CONSUMER PROTECTION CASES

In cooperation with the Department of License Affairs, this office has continued active prosecution of several City ordinances involving consumer protection. The following cases are matters that have been resolved in proceedings, Seattle Municipal Court and King County Court.

City v. Alec and Michael Book

An investigation by the City's Consumer Affairs office of complaints that appliances purchased from the defendant had not been repaired or purchasers' money refunded in accordance with the 30-day money-back guarantee given at the time of sale, resulted in prosecution and conviction of both defendants in Municipal Court on two counts each of false advertising. One of the defendants was found guilty of three counts of obtaining a license to do business as a second hand dealer in violation of Seattle's License Code.

City v. Citizens' Security Systems Association, Inc.

Citizens' Security Systems Association, Inc. was found guilty of 18 violations of the Seattle License Code after complaints that uniformed men were soliciting patrol service contracts. At trial before a jury in Municipal Court, the corporation was found guilty of 18 violations of the License Code.

City v. Lang Towing Company

A hearing conducted by the Board of Public Works with the assistance of the Law Department and a special hearing officer resulted in review charges by the Department of Licenses and the Board of Public Works that Lang Towing Company routinely violated its license. The Lang Towing Contract, resulted in termination of the license and pursuant to the terms of the license.

*Coughlin v. City et al. and United Indians
and Peoples Foundation*

County Cause No. 786873

The Department of Parks and Recreation had issued a "declaration of no significant impact" under the State Environmental Policy Act (SEPA) after concluding that development of the Indian Cultural Center (a "major action" under SEPA) at Discovery Park would not pose any significant adverse environmental effects either on the park or the surrounding Magnolia community. Plaintiff, a resident of the area, contended that such declaration was inadequate and that an environmental impact statement (EIS) with attendant findings and recommendations, etc. was required. The court, after reviewing the administrative record, upheld the City's decision to issue a "declaration of no significant impact" and quashed the writ of certiorari. Plaintiff has appealed to the Court of Appeals. (Court of Appeals No. 4542-1)

Coughlin v. City and Lockview Rest Home

County Cause No. 793499

Plaintiff, a Magnolia resident, sought review by Superior Court of the Board of Adjustment approval of a zoning variance granted to defendant under Section 26.54.030 of the Zoning Code to allow defendant to make certain structural improvements, contending that such use could not be granted to extend a nonconforming use. The Board of Adjustment, following review of the Board's record, upheld the action of the Board, dismissed the complaint and quashed the writ. Plaintiff has appealed and the matter is now pending in the Court of Appeals. (Court of Appeals No. 4554-1)

Lang Towing Company, Inc. et al. v. City, et al.

County Cause No. 783396

In this case, Plaintiff automobile dealers, contended that the Comprehensive Sign Ordinance No. 102929 (regulating construction, installation and maintenance of signs), was unconstitutionally vague and discriminatory in its application as to the several classes of persons affected. Plaintiffs also alleged the City had failed to comply with the State Environmental Policy Act in failing to issue an environmental impact statement prior to adoption of the ordinance. The court held that the City had not complied with SEPA and entered judgment declaring the ordinance to be invalid on that ground. The court did not rule upon the constitutional issues presented. The Board of Public Works subsequently issued a "declaration of no significant impact" and readoption of the Comprehensive Sign Ordinance as a part of the City's new and revised Building Code is pending before the City Council.

IX.
ANTITRUST CASES—1976

During 1976 the City participated as a class member and received the sum of \$17,000 in antitrust litigation involving cast iron pipe, gypsum, water meters, motor vehicles, city buses, fertilizer, and baseball franchises.

Additional cases are still pending.

X.
CONSUMER PROTECTION CASES

In cooperation with the Department of Licenses and Consumer Affairs, this office has continued active prosecution of violations of several City ordinances involving consumer protection. Among the following cases are matters that have been resolved in administrative proceedings, Seattle Municipal Court and King County Superior Court.

City v. Alec and Michael Book

An investigation by the City's Consumer Affairs Division into complaints that appliances purchased from the defendants had broken down and not been repaired or purchasers' money refunded in accordance with the 30-day money-back guarantee given at the time of sale, resulted in prosecution and conviction of both defendants in Municipal Court on two counts each of false advertising. In addition, one of the defendants was found guilty of three counts of failing to obtain a license to do business as a second hand dealer, in violation of Seattle's License Code.

City v. Citizens' Security Systems Association, Inc.

Citizens' Security Systems Association, Inc. was charged with 24 violations of the Seattle License Code after complaints that armed uniformed men were soliciting patrol service contracts by giving the impression that they were Seattle Police Officers. After a three day trial before a jury in Municipal Court, the corporation was found guilty of 18 violations of the License Code.

City v. Lang Towing Company

A hearing conducted by the Board of Public Works with the assistance of the Law Department and a special hearing officer, to review charges by the Department of Licenses and Consumer Affairs that Lang Towing Company routinely violated its City Police Impound Towing Contract, resulted in termination of the contract. Upon the termination and pursuant to the terms of the contract, the

Board of Public Works declared a forfeiture of Lang's bonds totaling \$42,000. The City has commenced proceedings in Superior Court to collect that sum.

City v. Magnolia Foods, Inc.

Magnolia Foods Inc., a Washington Corporation, was found guilty on January 28, 1976 in Seattle Municipal Court of 4 counts of failure to disclose to customers appropriate unit prices while offering groceries for sale in four of the corporation's Seattle stores.

City v. Opportunities Service Company, Inc. et al.

Four Opportunities Service Company solicitors were charged with and pleaded guilty in Municipal Court to charges of soliciting without a license in violation of the License Code (Ordinance 48022). The defendants had been arrested by University of Washington police for soliciting students to purchase magazine subscriptions. Charges remain outstanding against the solicitors' crew chief.

City v. Safeway Stores, Inc.

Following an inspection of the store on October 22, 1976, by Weights and Measures inspectors of the Department of Licenses and Consumer Affairs, Safeway Stores, Inc., a Maryland Corporation, was charged in Municipal Court with violating Seattle's Unit Price Ordinance 100708, section 2 and 3) by failing to post unit prices for certain commodities in its store located at 4732 Brooklyn N.E. The defendant forfeited bail a month after the filing of the charge.

City v. Roger Guy Scott

The defendant, doing business as Furniture Center—Stereo Loft, pleaded guilty in King County Superior Court to four counts of false advertising. In addition to a jail term and a \$1,200 fine, the defendant agreed to spend \$470 for a series of small space newspaper ads informing and warning the public about false advertising.

City v. Gerard Meat Co.

In Municipal Court Gerard Meat Co. was charged with and convicted of peddling meats door-to-door from unrefrigerated vehicles, a violation of Ordinance 94465. After conviction for the offense, Gerard Meat Co.'s meat sale related licenses were revoked by the Department of Licenses and Consumer Affairs.

In the Matter of Licenses 11626, 11907, (Greytop Cabs)

Charges of failure to maintain liability insurance, a violation of the License Code, were brought against Greytop Cab operators be-

fore the Seattle Hearing Examiner after comp they were unable to collect damages followi Greytop Cabs. The Hearing Examiner suspen vehicle-for-hire licenses for six months on the paid. The cab operators have appealed that Court, where it is now pending.

XI.

NOTEWORTHY ADMINISTRATIVE PROCEEDINGS BEFORE THE FEDERAL POWER COMMISSION

1) *Application to Raise Height of Ross Dam*: In 1976, an F.P.C. Administrative Law Judge issued an order to authorize the raising of the height of Ross Dam pursuant to regular F.P.C. practice, has been approved by the full Federal Power Commission. As of this date, the body had not acted on the City's application. Opponents include not only American and Canadian groups but the Washington State Department of Ecology.

2) *Application by BPA to Increase Transmission Rates*: The City has intervened in the matter of The Bonneville Basin's application to the F.P.C. to confirm proposed transmission rate schedules, since Seattle is partially and adversely affected by imposition of such rates. Primary disclosure is now underway; administrative proceedings expected to continue through most of 1977.

3) *State's Petition to Increase Minimum Flow at Priest Rapids Hydroelectric Facility*: Seattle and the City of Power from Grant Co. P.U.D.'s Priest Rapids Project have intervened in the matter of the State's petition for an order increasing by a substantial amount the periods of each year, the minimum required flow at the project. Because eight percent of the project's output is used in Seattle alone, it would be adversely affected by the petition. Preliminary administrative proceedings expected to continue through next year's end.

4) *General*: During 1977 the Law Department and City Light personnel in the preparation of an application for F.P.C. preliminary permit to determine the feasibility of the Copper Creek Hydroelectric Facility on the Skagit River. Application to relicense the City's existing Skagit Dam, Diablo and Ross Dams, which assistance com-

Works declared a forfeiture of Lang's bonds totaling \$10,000. The City has commenced proceedings in Superior Court to

Foods, Inc.

Foods Inc., a Washington Corporation, was found guilty on July 28, 1976 in Seattle Municipal Court of 4 counts of selling food close to customers appropriate unit prices while offering a special sale in four of the corporation's Seattle stores.

Opportunities Service Company, Inc. et al.

Opportunities Service Company solicitors were charged with soliciting in Municipal Court to charges of soliciting without a license in violation of the License Code (Ordinance 48022). The solicitors were arrested by University of Washington police for soliciting to purchase magazine subscriptions. Charges regarding the solicitors' crew chief.

Safeway Stores, Inc.

Safeway Stores, Inc. was inspected on October 22, 1976, by Department of Licenses and Inspections inspectors of the Department of Licenses and Inspections. *Safeway Stores, Inc.*, a Maryland Corporation, was found guilty in Municipal Court with violating Seattle's Unit Price Ordinance (Ordinance 708, section 2 and 3) by failing to post unit prices for commodities in its store located at 4732 Brooklyn N.E. The store forfeited bail a month after the filing of the charge.

Guy Scott

Guy Scott, doing business as Furniture Center—Stereo Loft, was found guilty in King County Superior Court to four counts of false advertising. In addition to a jail term and a \$1,200 fine, the defendant is required to spend \$470 for a series of small space newspaper ads warning the public about false advertising.

Gerard Meat Co.

Gerard Meat Co. was charged with and convicted of selling meats door-to-door from unrefrigerated vehicles, in violation of Ordinance 94465. After conviction for the offense, *Gerard Meat Co.*'s meat sale related licenses were revoked by the Department of Licenses and Consumer Affairs.

Revocation of Licenses 11626, 11907, (Greytop Cabs)

Failure to maintain liability insurance, a violation of Ordinance 94465, were brought against Greytop Cab operators be-

fore the Seattle Hearing Examiner after complaints by citizens that they were unable to collect damages following accidents involving Greytop Cabs. The Hearing Examiner suspended the cab operators' vehicle-for-hire licenses for six months on the condition the claims be paid. The cab operators have appealed that decision to Superior Court, where it is now pending.

XI.

NOTEWORTHY ADMINISTRATIVE PROCEEDINGS—1976 BEFORE THE FEDERAL POWER COMMISSION:

1) *Application to Raise Height of Ross Dam:* On February 4, 1976, an F.P.C. Administrative Law Judge issued an Initial Decision to authorize the raising of the height of Ross Dam, which decision, pursuant to regular F.P.C. practice, has been directly transmitted to the full Federal Power Commission. As of the end of the year, that body had not acted on the City's application. Active opponent intervenors include not only American and Canadian environmental groups but the Washington State Department of Game, Fisheries and Ecology.

2) *Application by BPA to Increase Transmission Rates:* The City has intervened in the matter of The Bonneville Power Administration's application to the F.P.C. to confirm and approve new proposed transmission rate schedules, since Seattle would be substantially and adversely affected by imposition of such new rates. Preliminary disclosure is now underway; administrative proceedings are expected to continue through most of 1977.

3) *State's Petition to Increase Minimum Flow Releases from Priest Rapids Hydroelectric Facility:* Seattle and all other purchasers of Power from Grant Co. P.U.D.'s Priest Rapids Hydroelectric Project have intervened in the matter of the State Department of Fisheries petitions for an order increasing by a substantial level during certain periods of each year, the minimum required releases from such project. Because eight percent of the project's output is purchased by Seattle alone, it would be adversely affected by the granting of such petition. Preliminary administrative proceedings were underway at year's end.

4) *General:* During 1977 the Law Department also assisted City Light personnel in the preparation of an application for an F.P.C. preliminary permit to determine the feasibility of the proposed Copper Creek Hydroelectric Facility on the Skagit River, and an application to relicense the City's existing Skagit facilities at Gorge, Diablo and Ross Dams, which assistance continues in 1977.

**BEFORE THE STATE ENERGY FACILITY SITE
EVALUATION COUNCIL:**

Northern Tier Oil Pipeline Corporation's Application: The City intervened in the matter of the pipeline corporation's application to construct and operate an oil off-loading facility for crude Alaskan oil together with a transmission pipeline crossing the Cascade Range on a portion of the City's Cedar River Watershed. The City was actively engaged in preliminary proceedings at the year's end, and is contending that there will be potential detrimental consequences of pipeline construction and operation in watershed areas, and that the pipeline corporation's ability to acquire watershed property is questionable.

BEFORE THE STATE BOARD OF HEALTH:

Municipal Water Reservoir Covering Requirements: Following extensive participation by this office in administrative proceedings and hearings regarding State Health Department regulations requiring the covering of municipal water reservoirs, the State Board of Health amended said regulations in mid-1976, to permit the protection of such facilities by means other than costly physical structures.

BEFORE THE STATE SHORELINES HEARINGS BOARD:

1) *In the Matter of a Substantial Development Permit by The City of Seattle to the City Department of Engineering, SHB Nos. 203, 203-A, 203-B, and 203-C.*

Appellants in these consolidated appeals challenged the City's issuance of a shoreline substantial development permit to the Engineering Department for the Northeast Pacific Street Relocation Project claiming, among other things, that the environmental impact statement for the project was inadequate and that the City had not complied with the Shorelines Management Act in issuing the permit. The Shorelines Hearings Board upheld the permit; no further appeal was taken.

2) *In the Matter of a Substantial Development Permit Denied by The City of Seattle to St. Vincent de Paul Development, SHB No. 227.*

The City's denial of a substantial development permit to construct a new store facility and office on the grounds that the applicant's present use of the site constituted "warehousing and manufacturing" (two uses not permitted under the draft Shoreline Master Program), was overturned by the Shorelines Hearings Board which ordered the permit issued but attached extensive conditions to such permit; the City has not appealed that decision.

BEFORE THE STATE EMPLOYMENT SECURITY
HEARING TRIBUNAL:

In Re: Employees of Seattle City Light—Docket No. 6-00906-6, 6-00551-6.

In this matter, applications for unemployment benefits submitted by over 300 "on-strike" Department employees were considered by an Employment Security Administrative Law Judge, who concluded that all strikers did not qualify for unemployment compensation; labor representatives of the employee applicants have a decision; their petition for review by the Employment Security Commission was still pending on December 31, 1976.

BEFORE THE SEATTLE OFFICE OF WOMEN'S
HEARING PANEL:

Daisy Jones et al. v. City, Case No. AO-165.

In 1974, Eight female electrical trades trainees filed with the Seattle Office of Women's Rights (O.W.R.) the Department of Lighting had discriminated against them on basis of sex. The Hearing Examiner found no discrimination in the Department, but excepted one situation with respect to which he recommended another hearing. In July, 1976, the Hearing Panel proposed findings and recommendations were made. The Hearing Panel appointed by the O.W.R. to make the findings that Panel found that the Department of Lighting had discriminated and ordered the Department to reinstate the trainees, to pay them all back pay and benefits they would have received had they been continuously employed, to enter them in an apprenticeship program within a certain period of time, and to pay the costs incurred by the O.W.R. in connection with this hearing. The City Council appropriated from the Light Fund monies to carry out the Panel order.

XII.
STAFF CHANGES

During 1976, new positions created in the 1976 budget were filled by Assistants David S. Admire, former Legal Aid Office of Walla Walla County; Harriett Manna S. Cooke; and Phillip Aaron. Gordon B. Davis joined the office in 1976 after serving on the staff of the Washington Attorney General.

In late 1976, after graduation from law school and completion of bar examinations, new Assistants Andrew P. Stephen DiJulio joined the staff. David N. Walters

WATERWAY FACILITY SITE

Corporation's Application: The City of Seattle's pipeline corporation's application to construct a self-loading facility for crude Alaskan oil on a pipeline crossing the Cascade Range on the Snohomish River Watershed. The City was actively reviewing the application at the year's end, and is contending with the detrimental consequences of pipeline construction in watershed areas, and that the pipeline construction in the watershed property is questionable.

BOARD OF HEALTH:

Air Covering Requirements: Following the Board's office in administrative proceedings regarding Health Department regulations requiring covering of water reservoirs, the State Board of Health in mid-1976, to permit the protection of reservoirs other than costly physical structures.

SHORELINES HEARINGS BOARD:

Substantial Development Permit by The Department of Engineering, SHB Nos. 203,

Consolidated appeals challenged the City's denial of a substantial development permit to the Engineering Department for the Northeast Pacific Street Relocation Project. The Board found that the environmental impact statement was inadequate and that the City had not complied with the Shoreline Management Act in issuing the permit. The Board upheld the permit; no further appeal was filed.

Substantial Development Permit Denied by the Department of Engineering, de Paul Development, SHB No. 227.

The Board denied a substantial development permit to construct a warehouse on the grounds that the applicant's application violated the draft Shoreline Master Program (SMP) under the draft Shoreline Master Program), and that the Shorelines Hearings Board which ordered the denial of the permit on extensive conditions to such permit; the Board's decision.

BEFORE THE STATE EMPLOYMENT SECURITY DEPARTMENT HEARING TRIBUNAL:

In Re: Employees of Seattle City Light—Docket Nos. 5-15058-6, 6-00906-6, 6-00551-6.

In this matter, applications for unemployment compensation benefits submitted by over 300 "on-strike" Department of Lighting employees were considered by an Employment Security Department Administrative Law Judge, who concluded that all but two of the strikers did not qualify for unemployment compensation benefits. The labor representatives of the employee applicants have challenged that decision; their petition for review by the Employment Security Commission was still pending on December 31, 1976.

BEFORE THE SEATTLE OFFICE OF WOMEN'S RIGHTS HEARING PANEL:

Daisy Jones et al. v. City, Case No. AO-165.

In 1974, Eight female electrical trades trainees filed a complaint with the Seattle Office of Women's Rights (O.W.R.) alleging that the Department of Lighting had discriminated against them on the basis of sex. The Hearing Examiner found no discrimination by the Department, but excepted one situation with respect to which he recommended another hearing. In July, 1976, the Hearing Examiners proposed findings and recommendations were rejected by a Hearing Panel appointed by the O.W.R. to make the final decision; that Panel found that the Department of Lighting had been discriminatory and ordered the Department to reinstate the trainees, to pay them all back pay and benefits they would have received had they been continuously employed, to enter them in an apprenticeship program within a certain period of time, and to pay the attorney's fees incurred by the O.W.R. in connection with this hearing. The Seattle City Council appropriated from the Light Fund monies to implement the Panel order.

XII.

STAFF CHANGES

During 1976, new positions created in the 1976 Annual Budget were filled by Assistants David S. Admire, former Director of the Legal Aid Office of Walla Walla County; Harriett M. Cody; Marianna S. Cooke; and Phillip Aaron. Gordon B. Davidson joined the office in 1976 after serving on the staff of the Washington State Attorney General.

In late 1976, after graduation from law school and successful completion of bar examinations, new Assistants Andre S. Wooten and P. Stephen DiJulio joined the staff. David N. Walton, who gradu-