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City of Seattle

LAW DEPARTMENT

1978 Annual Report

Douglas N. Jewett
City Attorney

287898

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING - SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

April 6, 1979

E.L. Kidd
City Comptroller
The City of Seattle

Dear Mr. Kidd:

Submitted herewith is a copy of the Law Department's 1978 Annual Report for your information. I hope you will find useful the index of opinions prepared by this Department in 1978.

Sincerely,

Dicksey Winters

DICKSY WINTERS
Law Department Administrator

DW:mjb

CITY OF SEATTLE
FILED

APR 10 1979

E. L. KIDD
CITY COMPTROLLER
AND CITY CLERK

DOUGLAS N. JEWETT
CITY ATTORNEY
CITY OF SEATTLE

TO: Mayor and City Council of The City of Seattle

The reorganization of the Law Department during 1978 has permitted the staff to provide timely legal assistance to City departments and agencies. The Advisory, Land Use and Utilities Divisions have given experienced legal support drafting legislation, representing departments in court and in administrative hearings, drafting and reviewing contracts, agreements, permits and codes, and advising the City on projects and issues in the initial stages of those issues, emphasizing the need to discover and avoid potential legal problems.

The Criminal Division of the Department was established with the major purpose of prosecuting municipal ordinance violations in Municipal Court and on appeal in Superior Court. The division successfully initiated two major programs in 1978.

• The Battered Women's Project, which is now staffed by a Project Manager and two CETA, Community Service Aides, processes approximately 30 cases a week of domestic abuse. The project has coordinated extensively with other community service agencies to bring victims of domestic assault successfully through the criminal justice process. It is anticipated that over the long term this process will ultimately reduce the number of such crimes by increasing the number of successful prosecutions and by providing victim/witness with a positive experience in dealing with the system.

• The Division also launched the Aggressive Prosecution Program designed to identify particularly difficult ordinance violations where witness and case preparation need a special emphasis not normally available. This program has also sponsored seminars for Police personnel to give them training in the critical elements of successful case preparation.

In late 1978 and early 1979 the Criminal Division led an attempt to change State legislation which will provide the City with the mechanisms to aggressively reduce the problem of the Drunk Driver. Proposed legislation includes the mandatory imposition of jail time for all convictions, does not allow reduction of violations from Driving While Intoxicated to Physical Control and makes it unlawful to drive or be in physical control of a motor vehicle with a .10 blood alcohol level.

The Litigation Division of the Department defends the City in tort claim actions, construction contract disputes and other litigation involving damages. During 1978 several major lawsuits were either settled out of court or the jury awarded a verdict in favor of the City. It is conservatively estimated that the experienced staff of litigation attorneys saved the City over half a million dollars in damage awards. The Division has launched a major review of the City's codes in an attempt to further reduce the City's liability exposure.

During 1978, with the use of CETA resources the Department hired three paralegals. This paralegal support has been valuable to the Department by assisting in legal research and the scheduling and coordinating of major lawsuits. In addition, the program has provided excellent training for the CETA personnel.

Douglas N. Jewett, City Attorney

Ruth Woo, Secretary

Advisory Division

Donald H. Stout, A.C.A.

Director

Jorgen G. Bader, A.C.A.

Dona M. Cloud, A.C.A.

Gordon B. Davidson, A.C.A.

P. Stephen DiJulio, A.C.A.

Rod P. Kaseguma, A.C.A.

Susan Rae Sampson, A.C.A.

Betty Ngan, Paralegal

Gordon J. Campbell, Legal Intern

Land Use Division

Gordon F. Crandall, A.C.A.

Director

James E. Fearn, Jr., A.C.A.

Ellen D. Peterson, A.C.A.

Ross A. Radley, A.C.A.

G. Grant Wilcox, A.C.A.

Andre' S. Wooten, A.C.A.

Donna Leong, Legal Intern

Criminal Division

Paul J. Bernstein, A.C.A.

Director

Mary V. Brennan, A.C.A.

Myron L. Cornelius, A.C.A.

Paul A. Cullen, A.C.A.

Jane E. Gilbertsen, A.C.A.

Darcy C. Goodman, A.C.A.

Donna B. Hubbard, A.C.A.

Michael S. Hurtado, A.C.A.

Robert B. Johnson, A.C.A.

Katherine Kuriyama, A.C.A.

Sean Sheehan, A.C.A.

Antionette Brooks, Secretary

Litigation Division

Thomas J. Wetzell, A.C.A.

Director

Charles D. Brown, A.C.A.

Elizabeth A. Huneke, A.C.A.

Philip M. King, A.C.A.

Richard E. Mann, A.C.A.

Philip D. Mortenson, A.C.A.

J. Roger Nowell, A.C.A.

R. James Pidduck, Jr., A.C.A.

Christopher Parsons, Paralegal

Diane Priest, Paralegal

A.C.A. - Assistant City Attorney

Battered Women's Project

Sally A. Buckley, Manager
Barbara Daniels
Joanne Pritchett

Utilities Division

Arthur T. Lane, A.C.A.
Director
Walter T. Williams, A.C.A.
Jeannette Pfotenhauer,
Legal Intern

Administration

Dicksy Winters, Administrator
Martha Dellasega, Office Manager
Kathleen L. Meegan, Word Processing Supervisor
Patricia Harrigan, Assistant Word Processor
Martha Browne
Michyco Epstein
Virginia Fields
Francesca Hicks
Robin Lyons
Melinda Merrell

A.C.A. - Assistant City Attorney

tt, City Attorney

, Secretary

Land Use Division

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Ross A. Radley, A.C.A.
G. Grant Wilcox, A.C.A.
Andre' S. Wooten, A.C.A.
Donna Leong, Legal Intern

Intern

Litigation Division

Thomas J. Wetzel, A.C.A.
Director
Charles D. Brown, A.C.A.
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Philip M. King, A.C.A.
Richard E. Mann, A.C.A.
Philip D. Mortenson, A.C.A.
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R. James Pidduck, Jr., A.C.A.
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Diane Priest, Paralegal

orney

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Barbara Daniels

Joanne Pritchett

Utilities Division

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Director

Walter T. Williams, A.C.A.

Jeannette Pfotenhauer,

Legal Intern

Claims Section

Vincent L. Porter, Manager

James L. Baughman

Lido DiLuck

Rashad El-Amin

William G. Heurion

Curtis E. Jacobs

T. William Liston

Maurice A. Quale

Al Masar - Retired 1978

Arlene Y. McMillan, Secretary

Administration

Dicksy Winters, Administrator

Martha Dellasega, Office Manager

Kathleen L. Meegan, Word Processing Supervisor

Patricia Harrigan, Assistant Word Processing Supervisor

Martha Browne

Michyco Epstein

Virginia Fields

Francesca Hicks

Robin Lyons

Melinda Merrell

A.C.A. - Assistant City Attorney

I.

FORMAL OPINIONS

Two hundred and seventeen requests for formal opinions were received during 1978 from the Mayor, City Council members and City Departments. All formal opinions written by this office during 1978 have been indexed by topics for easy reference.

In January, 1978, the Law Department revised its opinion process to recognize the need for informal advice and rapid response in some cases. The new process has been readily accepted by the City and has allowed the Department to deal with potential legal problems while projects and proposals are still in the formative stages. It also assures that adequate attention is given to major issues of law.

5/10,

7/3/

8/29,

7/7/

1/30,

2/6/

2/16

2/24

4/4/

5/2/

6/1/

7/24

9/19

BORROWING

5/10/78	Costs associated with planning of Forward Thrust projects are capital expenditures and may be paid with Forward Thrust monies.	6680
7/3/78	Solid Waste Utility loan authorized by Ordinance 107431.	6697
8/29/78	Limitations on reprogramming of Forward Thrust projects deemed to be impractical.	6743

CHARTERS

7/7/78	Effect of Charter Amendment No. 5 on negotiations with Local 17, International Federation of Professional and Technical Engineers.	6700
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CONTRACTS

1/30/78	Seattle Center Licensee shall provide bond guaranteeing payment of royalties for any public performance(s) and display(s) of copyrighted works.	6629
2/6/78	Preferential purchasing from minority-owned business not authorized under existing City Law.	6632
2/16/78	Analysis of "Mutual and Offsetting Benefits" lease between Active Mexicanos and City.	6639
2/24/78	Recommendations on insurance coverage at Green Lake boat Concession.	6644
4/4/78	Acceptance of proposals offered by Sperry-Univac and NCR Corporation.	6651
5/2/78	Analysis of refuse-derived fuel facility proposals.	6677
6/1/78	City and Metro may contract for street use fees.	6688
7/24/78	Analysis of possible losses by City in contract with Sartoris Public Systems, Inc. in absence of indemnity bond - Central Financial Management System contract.	6707
9/19/78	Analysis of ordinances establishing new Board of Public Works: removal for cause; termination of fixed term; employment contracts; lowest and best bid; duties of new Board.	6733

9/20/78	Proposed amendments to Central Financial Management System contract with Sartoris Public Systems, Inc.	6735	10/10/78
8/30/78	Recommended changes to food program contract with Family Day Care Homes.	6745	11/21/78
10/17/78	Proposed development of Interbay Golf Course through concession agreement authorized.	6761	
10/24/78	Analysis of application of contract compliance ordinance (101432) to purchasing contracts.	6766	<u>Candidat</u>
11/2/78	Execution of music performance license agreement with SESAC, Inc. will avoid claims for royalties, though standard licensing agreement puts burden on performing artist.	6768	12/15/78
			<u>Conduct</u>
	<u>DEPARTMENTS, COMMISSIONS AND BOARDS</u>		7/27/78
2/28/78	Members of Seattle Design Commission who serve after expiration of term until successors confirmed are entitled to compensation.	6645	8/2/78
3/6/78	Applicability of Open Public Meetings Act and Initiative 276 to Board of Administration of City Employees' Retirement System.	6652	8/3/78
3/9/78	Library Department must convert securities bequests into authorized investments within ninety (90) days of receipt.	6653	8/9/78
2/23/78	Analysis of appointment to Board of Ethics/Fair Campaign Practices Commission on citizen's organizational and community memberships (Theodore L. Choi).	6659	8/23/78
4/21/78	Compensation unit required in Civil Service Department, which may bill Personnel Department for time spent on Personnel Department compensation business.	6670	
7/20/78	City Attorneys will render legal advice only to elected officials and department heads.	6704	10/26/78
8/18/78	Non-Salaried members of boards, commissions, and committees who exercise public authority are subject to "Conflict of Interest" provisions of Ordinance 100435.	6731	2/22/78
9/19/78	Analysis of ordinances establishing new Board of Public Works: removal for cause; termination of fixed term; employment contracts; lowest and best bid; duties of new Board.	6733	5/1/78
			5/10/78

- 10/10/78 Article XVI of City Charter, as amended, requires generally that employee benefits be administered by Personnel Director. 6758
- 11/21/78 Decisions of Board of Adjustment by less than three members may be voidable if judicial review timely sought. 6776

ELECTIONS

Candidates

- 12/15/78 When person receiving second highest vote for Civil Service Commission withdraws, third highest not nominated for runoff election; new election required. 6784

Conduct of

- 7/27/78 Membership on Metro Council by Mayor and City Councilpersons should not appear on ballot, unless authorized by statute. 6709
- 8/2/78 Analysis of constraints upon political activity by City Councilmember and by City Council regarding ballot measure. 6717
- 8/3/78 Special filing period required to fill vacancy in Council position if vacancy occurs prior to fourth Tuesday before general election. 6718
- 8/9/78 City Comptroller may not reject or refuse to process proposed initiative even though unconstitutional (Initiative 17). 6726
- 8/23/78 Prosecution for violations of Fair Campaign Practices Ordinance by Socialist Workers Campaign not feasible. 6738

EXPENDITURES

- 10/26/78 Day care center for children of municipal employees would not be gift of public funds. 6567
- 2/22/78 City may not establish a sub-account within General Donation and Gift Account for gifts of commemorative coins to dignitaries. 6641
- 5/1/78 Spay neuter clinic in furtherance of public program is entitlement not gift. 6673
- 5/10/78 Costs associated with planning of Forward Thrust projects are capital expenditures and may be paid with Forward Thrust monies. 6680

5/10/78	Block Grant Funds may not be used to purchase library books.	6681
5/11/78	Fiscal officer not required to personally review invoices before preparing payment voucher.	6682
7/18/78	Evaluation of four proposals for City reimbursement of ambulance companies responding to City aid requests.	6703
8/2/78	Analysis of constraints upon political activity by City Councilmember and by City Council regarding ballot measure.	6717
8/7/78	Use of donations in Animal Population Control Clinic Account.	6722
8/9/78	Reimbursement of expenses of City employees within City governed by Ordinance 106525.	6727
10/20/78	Department of Human Resources may provide child care services to children while low income parent or guardian on strike.	6763
11/9/78	Relocation of Chapel on the Hill for expansion of Discovery Park would not violate church/state constitutional limitations.	6770
11/15/78	Donations for animal population control clinic may not be spent for interim clinic; time limits in initiative for establishing clinic are directory, not mandatory.	6772
12/29/78	Analysis of voting requirements to amend budget.	6788

FEDERAL-CITY RELATIONS

5/10/78	Block Grant Funds may not be used to purchase library books.	6681
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Regulatory

2/23/78	Discussion of proposed amendatory language to federal law to implement "conduit theory".	6643
3/6/78	City's water rights on Cedar River subject to federal navigational servitude.	6650
5/9/78	City Building Code glazing materials standards pre-empted by more stringent federal standards -- potential effect on tort liability.	6679
5/26/78	City does not own waters of Lake Union and cannot regulate airport noise thereon.	6687

LICENSING

Validity

11/28/78 Locational or territorial restraints on licenses
peddlers and pawnbrokers generally permissible. 6779

Issuance, Revocation, etc.

2/22/78 City may deny a business license to rental listing
service which does not have real estate broker's
license. 6642

3/22/78 Seattle Fire Department Relief Association does
not meet requirements for Charitable Solicitation
License. 6657

Operation

8/23/78 License Code does not require that owner of taxi-
cab license be affiliated with taxi service
company. 6739

8/28/78 Bank which sells repossessed vehicles not a retail
seller and not required to obtain City Used Auto-
mobile Dealer's License. 6742

LOCAL GOVERNING BODY

8/2/78 Analysis of constraints upon political activity
by City Councilmember and by City Council. 6717

8/3/78 Special filing period required to fill vacancy in
Council position if vacancy occurs prior to fourth
Tuesday before general election. 6718

9/19/78 Membership of City Councilmember on Board of
Directors for Providence Hospital may result in
conflict of interest in violation of Ordinance
100435. 6734

9/29/78 Restraints upon City Council to delegate respon-
sibility for confirming assessment rolls,
segregating assessments, and releasing easements. 6755

11/17/78 Council's refusal to confirm Mayor's qualified
appointee on basis of dissatisfaction with
Mayor's efforts to recruit minorities and women
is political question not subject to judicial
review. 6775

OFFICERS AND EMPLOYEES

3/6/78 Bond coverage includes persons who certify pay-rolls as part of a recognized job function and is not limited to "officers" 6651

General

7/7/78 Effect of Charter Amendment No. 5 on negotiations with Local 17, International Federation of Professional and Technical Engineers. 6700

7/31/78 Analysis of Mayor's authority in hiring City employees. 6713

Eligibility, etc.

3/23/78 Analysis of appointment to Board of Ethics/Fair Campaign Practices Commission on citizen's organizational and community memberships (Theodore L. Choi). 6659

4/10/78 Definition of "auditor" as used in Ordinance 106653 regarding qualifications of Administrator of FCPC. 6662

8/1/78 Officer or trustee of corporate owner of property may serve on Pike Place Market Historical Commission as property owner member. 6715

10/3/78 City may appoint unlicensed person City Engineer or Superintendent of Buildings, but that person may not perform engineering tasks. 6756

11/17/78 Council's refusal to confirm Mayor's qualified appointee on basis of dissatisfaction with Mayor's efforts to recruit minorities and women is political question not subject to judicial review. 6775

Compensation and leave

10/26/78 Day care center for children of municipal employees would not be gift of public funds. 6567

2/28/78 Members of Seattle Design Commission who serve after expiration of term until successors confirmed are entitled to compensation. 6645

3/2/78 Analysis of rules for administration of City Employees' Energy Conservation Suggestion Award Contest. 6649

4/21/78 Compensation unit required in Civil Service Department. 6670

5/3/78	City employee generally may accept honorarium for speech not in course of duties.	6675
5/15/78	Overtime pay to supervisory and administrative personnel.	6684
11/29/78	Employee entitled to pay for work out of class after four hours of such work.	6780
12/13/78	Analysis of city's authority to pay employees while engaged in collective bargaining negotiations or grievance procedures.	6783

Rights, duties and liabilities

1/10/78	No conflict of interest for former City employee to purchase urban renewal property unless engaged in actions while employed by City which resulted in unfair advantage in obtaining contract.	6625
1/13/78	Participation by City in lawsuit by City of Tacoma regarding union representation for supervisory employees inadvisable.	6626
5/1/78	City employees not exempt from overtime parking citations accrued in course of business unless authorized by ordinance.	6674
5/8/78	Engineering Department employee not entitled to reinstatement to former job (Richard L. Stevenson).	6678
6/12/78	Board of Ethics should determine whether conflict of interest exists regarding Director of Preservation & Development Authority (George Rolfe)	6692
6/27/78	Simultaneous membership in Design Commission and Bumgardner partnership by David Wright no conflict of interest.	6696
7/21/78	City may authorize use of non-multiple passenger vehicles by hard of hearing staff members.	6706
7/31/78	SPD Rules may prohibit officers from participating in off-duty activities which department is expressly directed by law to investigate, enforce or prosecute.	6714
8/4/78	Analysis of possible conflict of interest in petition of City Engineer for vacation of street for his own property -- appearance of fairness doctrine.	6720

8/18/78 Non-salaried members of boards, commissions, and committees who exercise public authority are subject to "Conflict of Interest" provisions of Ordinance 100435. 6731

8/4

9/19/78 Membership of City Councilmember on Board of Directors for Providence Hospital may result in conflict of interest in violation of Ordinance 100435. 6734

8/1

11/

Demotion, removal, etc.

Wor

9/19/78 City Council not authorized by City Charter to confirm or refuse to confirm removal of member of new Board of Public Works. 6732

4/2

9/19/78 Analysis of ordinances establishing new Board of Public Works: removal for cause; terminating of fixed term; employment contracts; lowest and best bid; duties of new Board. 6733

Par

3/2

10/6/78 Analysis of Mayor's power to remove Department Heads in new Charter Departments. 6757

7/2

11/30/78 Analysis of city's authority to afford preference in layoff to minorities and females to implement affirmative action programs and goals. 6781

7/2

Civil Service

2/6/78 Civil Service Commission empowered to hear untimely appeal regarding reinstatement of employee but not required to do so (City Charter, Article XVI, 514). 6633

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9/27/78 Union representation of employees before the Civil Service Commission is practice of law. 6754

11/27/78 Multiple job listings in one announcement lawful. 6778

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12/7/78 Probationary and provisional employees but not temporary employees entitled to vote for Civil Service Commission. 6782

8/7

12/15/78 When person receiving second highest vote for Civil Service Commission withdraws, third highest not nominated for runoff election; new election required. 6784

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Pension and retirement

5/5/78 Widow of City employee not automatically entitled to reinstatement of pension benefits as result of annulment of subsequent marriage. 6676

8/4/78	Responsibility for determining if disability incurred "in line of duty" rests with Firemen's Pension Board -- proposed definition of "in line of duty".	6719
8/14/78	City can require that its nonelected officers and employees retire at age 70.	6730
11/27/78	Analysis of rights of first and second wives' rights to Fire Fighter's pension.	6777

Workmen's compensation

4/26/78	Analysis of benefits payable to City Light employee involved in on-duty accident (Ken South).	6671
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Particular offices

3/21/78	Office of Superintendent of Buildings may be filled only upon appointment by Mayor and confirmation by City Council.	6655
7/21/78	Municipal Court judges are State officers and are not subject to City Fair Campaign Practice Ordinance (106653).	6705
7/27/78	Membership on Metro Council by Mayor and City Councilpersons should not appear on ballot, unless authorized by statute.	6709

ORDINANCES AND RESOLUTIONS

3/30/78	Recommended corrections to Standard Operating Procedures on appointments of City department heads.	6663
7/28/78	Discussion of possible impact of Initiative 15 (police firearms policy) if enacted; will be on ballot even if unconstitutional.	6710
8/7/78	City Council not precluded by City Charter from deleting cover and/or its reference to ordinance title.	6723
8/9/78	City Comptroller may not reject or refuse to process proposed initiative even though unconstitutional (Initiative 17).	6726
10/20/78	Initiative 13, if adopted, will abrogate remedy discrimination complaints based on sexual orientation if not then reduced to judgment.	6764

PARKING AND PARKING FACILITIES

On-street parking

- 3/28/78 Police may not cite vehicle for parking on Housing Authority property. 6660
- 7/28/78 City may establish resident parking preferences by amending Traffic Code. 6712
- 9/5/78 Attendant (valet) parking on city streets lawful if properly conducted. 6748
- 8/3/78 City may implement plan to cancel parking citations issued to foreign career consul vehicles on official consul business. 6752

Off-street parking

- 3/23/78 Analysis of proposals for development of Seattle Center in vicinity of Space Needle. 6658
- 8/7/78 Analysis of possibilities for construction of parking facilities for Space Needle. 6724
- 10/16/78 Carpool parking permit system not subject to off-street parking law, though fee paid. 6760

PARKS, PLAYGROUNDS, BEACHES, SWIMMING POOLS, STADIUMS, ETC.

- 2/24/78 Recommendations on insurance coverage at Green Lake Boat Concession. 6644
- 4/19/78 City may prohibit use of motorboats on Green Lake in interest of public safety. 6669
- 8/8/78 City may not discriminate between City and County residents in the administration of Park and Recreation facilities financed with proceeds of Forward Thrust Bonds. 6725
- 10/17/78 Proposed development of Interbay Golf Course through concession agreement authorized. 6761
- 12/18/78 Analysis of rights of City and University in Arboretum; effect of cross-membership of city officials in related boards. 6786

POLICE POWER

General

- 1/24/78 Analysis of existing S.P.D. policy and proposed Mayor's policy regarding use of deadly force. 6627

2/8/78	City Council may enact legislation restricting discharge of firearms by police.	6634
5/25/78	Analysis of proposed police intelligence ordinance.	6685
7/28/78	SPD Communications Center direct intercom and telephons line communications or conversations not private in nature and may be recorded.	6711

Requisites and limitations

9/6/78	Bill posting on city streets may be prohibited though enforcement difficult.	6750
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Enforcement

3/28/78	Police may impound vehicles on Housing Authority property under certain circumstances.	6660
8/22/78	Trustee or administrator of estate liable for Fire Code violations occurring after assuming control of property.	6737
9/27/78	Minors over eight years of age may be cited for animal control ordinance violations if able to understand the act or neglect; and minors entitled to impounded animal if able to prove right to the animal subject to payment of penalty, fees and costs.	6741
10/16/78	City may publish names on outstanding traffic warrants; not libelous if true; not tortious if no invasion of privacy.	6759

Nuisances

9/22/78	City may abate nuisances on private property after three days notice, and pre-abatement hearing not required (Ordinance 15957).	6736
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Regulation of buildings and other private property

5/12/78	Analysis of City's legal options for handling condo conversion.	6683
7/26/78	Authority of Seattle Police Department to impound vehicles in Seattle Housing Authority garden communities.	6708
8/1/78	Temporary political signs without permit during election season permissible.	6716

8/7/78 Determinations by Superintendent of Buildings under Condominium Moratorium Ordinance 107500 are final and not subject to appeal. 6721

9/7/78 Proposed condominium conversion ordinance is within police power, though possibly pre-empted by state law. 6751

Regulation of other matters

4/19/78 City may prohibit use of motor boats on Green Lake in interest of public safety. 6669

Civil liberties

8/25/78 Homosexuality and sexual orientation as used in Fair Employment and Open Housing Ordinances, should be construed in its common meaning. 6740

POWERS AND FUNCTIONS OF MUNICIPAL CORPORATION GENERALLY

Generally

2/22/78 City may not establish a sub-account within General Donation and Gift Account for gifts of commemorative coins to dignitaries. 6641

4/19/78 City may regulate Municipal Court magistrate program to extent it does not infringe upon inherent powers of court. 6668

5/1/78 Spay neuter clinic in furtherance of public program is entitlement not gift. 6673

6/16/78 City may conduct proposed spay-neuter pilot program. 6694

6/16/78 City may operate spay-neuter program under certificate or direct payment program. 6695

Public Records

2/3/78 Release of fire loss information at request of property owner does not violate right of privacy and should be released unless non-disclosure is essential to effective law enforcement. 6631

3/6/78 Applicability of Open Public Meetings Act and Initiative 276 to Board of Administration of City Employees' Retirement System. 6652

3/22/78 Analysis of Standard Operating Procedure 100-003 "Public Records Inspection and Copying". 6656

5/25/78 Analysis of proposed police intelligence ordinance. 6685

7/13/78 Fire Department may release certain data regarding physical evaluation of women prerecruits after deletion of candidates' names. 6701

10/17/78 Nurse-patient privilege regarding confidentiality of treatment records applicable only when nurse acts as agent or assistant to physician, and not as an independent person. 6762

12/28/78 City Engineer can secure copyright for computer programs he develops, set fee for disclosure, and refuse disclosure without payment of fee for five years. 6787

SEPA

2/17/78 Building permit issued to property owner for construction or demolition of structure is license within SEPA guidelines. 6640

2/28/78 Local agency policies which establish no standards controlling use of environment are exempt from SEPA requirements. 6648

7/14/78 Analysis of DCD decision to require EIS after sale of Sicks Stadium but before approval of final design. 6702

PROPERTY

Acquisition

3/9/78 Library Department must convert securities bequests into authorized investments within ninety (90) days of receipt. 6653

3/10/78 Analysis of proposed acquisition of Water District No. 61 by City. 6654

11/9/78 Relocation of Chapel on the Hill for expansion of Discovery Park would not violate church/state constitutional limitations. 6770

Title, Use and Control

2/16/78 Analysis of "Mutual and Offsetting Benefits" lease between Active Mexicanos and City. 6639

3/23/78 Analysis of proposals for development of Seattle Center in vicinity of Space Needle. 6658

3/30/78 Seattle Center Director may regulate certain activities on Center grounds 6664

5/25/78 Analysis of proposed exchange of properties between City and Associated Grocers, Inc. 6686

- 7/21/78 City may authorize use of non-multiple passenger vehicles by hard-of-hearing staff members. 6706
- 8/11/78 School District may sublease surplus school site to El Centro de la Raza. 6729
- 8/31/76 Jurisdiction over Seattle Center properties and Fire Alarm Center clarified. 6746

Disposition and Loss

- 2/14/78 Fee for processing easement release of unidentifiable value by City Light authorized but is administrative decision; release of easement of identifiable value requires fee. 6637
- 2/14/78 Private rights in dirt road through Dearborn Park not acquired through prescriptive easement. 6638
- 6/2/78 Formula for determining rental for Pier 57 lease agreement. 6690

Miscellaneous Properties

- 5/26/78 City does not own waters of Lake Union and cannot regulate airport noise thereon. 6687
- 6/2/78 Analysis of compensation to Park Department employees for work with Showmobile after assigned hours. 6691
- 10/24/78 Analysis of rights and duties of tenants of former Martha Washington School. 6765
- 12/28/78 City Engineer can secure copyright for computer programs he develops, set fee for disclosure, and refuse disclosure without payment of fee for five years. 6787

PUBLIC UTILITIES

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II.

REVIEW OF SIGNIFICANT CASES - 1978

DAMAGES

Dorsey v. City

King County Superior Court Cause Nos. 797342 and 811853
(consolidated with Horton v. City for trial).

Prayer was for \$3,800,000 for two deaths and one injury when employees of a contractor struck a City Light high voltage line with metal extension during installation of underground wiring facilities. City's negligence was claimed to occur when the design did not include the overhead wire and when City Light employee wrote a memo admitting some liability for the accident. Three other insurance companies were involved. The case was settled in June, 1978, for \$565,000 with the City paying \$200,000 in total to the surviving widows and injured man. (Medical bills alone for one man who died after lingering six months totaled \$200,000.)

Judith Halverson, et al. v. City, et al.

King County Superior Court Cause No. 813803
89 Wn.2d 673 (1978)

This action arose out of a fire that occurred at the privately owned and operated Airport Way Inn on May 10, 1976, in which Rodney Halverson died. It was contended that the City should have enforced its Housing Code to compel correction of known deficiencies in the building which contributed to the spread of the fire. Upon the appeal from the early dismissal of the City from the case the Washington Supreme Court ruled that a cause of action had been stated against the City, since the Housing Code had created a duty running to the tenants. Ultimately, the case was settled prior to trial with the City contributing \$200,000, as recommended by the court in a settlement conference.

Timothy J. Kristjanson v. City and Drew Dano Tolliver

King County Superior Court Cause No. 832565
Court of Appeals No. 6843-I

Plaintiff, who sustained a brain stem contusion as a result of an automobile collision with third party defendant Tolliver, alleged that the City provided inadequate stopping sight distance and signing on a city street and thereby proximately caused plaintiff's injuries. The trial court granted the City's motion for summary judgment, having found as a matter of law that there was no competent evidence to support plaintiff's allegation that City's negligence proximately caused plaintiff's injuries. The court's conclusion was based on the undisputed fact of Tolliver's reckless driving and the speculative nature of the evidence regarding the actions of the drivers of both automobiles. An appeal is pending.

Malone v. City

King County Superior Court Cause No. 81530
Court of Appeals No. 6240-I

In this case the City successfully defended, in a jury trial, separate claims of negligent street design and negligent emergency treatment by Fire Department paramedics. Plaintiff was a passenger in a sports car that struck a utility pole which had been situated eleven inches from the curb. She is now permanently paralyzed and claims the severity of her injuries is a result of the wrongful placement of the pole and the negligence of the paramedics in failing adequately to secure her during transport to the hospital. The jury found for the City on both claims, but plaintiff has appealed on the ground that the judge erred in one of the instructions relating to the claim against the paramedics.

Pillon v. City

King County Superior Court Cause No. 840761

During a City Council hearing into the Police Department budget the Chief of Police referred to one of his officers, Sergeant Pillon, as a "nut". Another senior police official said that Pillon was on extended sick leave for a mental breakdown which was incorrect.

Pillon sued for slander. The claim based upon the Chief's remarks was dismissed by the Court on a ruling that the term "nut" is not actionable at law, but a jury awarded \$15,000 in damages for the false statement that Pillon had suffered a mental breakdown.

Poole v. City

King County Superior Court Cause No. 839403

In this case plaintiff was permanently paralyzed when he fell into the compaction pit at the City's North Transfer Station. He alleged the facility was designed and maintained in such fashion as to be unreasonably dangerous to members of the public who are invited to use it. However, the evidence showed that plaintiff was intoxicated at the time he fell and the jury determined there was no liability on the part of the City.

Redford v. City

King County Superior Court Cause No. 824611

In this case a professional painter was severely injured when he contacted a high voltage City Light line with his long-handled paint roller while painting a duct on the roof of a steel factory. He lost both legs and suffered other devastating injuries.

The electrical line was less than the required 10-foot distance from the duct. Although this illegal clearance resulted from the installation of the duct after the erection of the power line, plaintiff contended that City Light personnel should have discovered this condition during the several years that they serviced the line.

Prior to trial of the case the parties negotiated settlement in the amount of \$690,840.63. The City's contribution to said settlement was \$200,000.

Seattle v. City

King County Superior Court Cause No. 805404
Court of Appeals No. 8729-1

This case involved a 10-year old boy who ignored a "Danger - Keep Off" sign and climbed a generator tower at the construction site of the Gasworks Park. The boy fell off and was injured. His parents sued the City alleging the tower was an attractive nuisance, and that the City was negligent in failing to prevent young children from playing on it. After a lengthy trial in Superior Court, a verdict was rendered in favor of the City. However, the trial judge, N. Ackley, ruled that the boy had been erroneously instructed on the law of attractive nuisance, and he granted plaintiffs a new trial. The City has appealed this ruling to the Court of Appeals.

LAND USE

Apple Theater v. City of Seattle

King County Superior Court Cause No. 817845

Northend Theater et al. v. City of Seattle

King County Superior Court Cause No. 817741

Gaiety Theater v. City of Seattle

King County Superior Court Cause No. 817742

90 Wn.2d 709 (October, 1978)

In May of 1976, The City of Seattle passed an amendment to its zoning ordinance classifying and defining "adult theaters", confining their location to metropolitan zones (BM, CM, CMT zones), and terminating non-conforming uses in other zones. The three theater operators affected by the termination provisions of the ordinance immediately brought declaratory and injunctive actions alleging the zoning act violated their rights of free speech, equal protection and due process. They sought and received a temporary injunction preventing the City from enforcing the ordinance while the suits were pending. After consolidation for trial and at an expedited trial on the merits in February, 1977, the City's zoning amendment was upheld as appropriate to further the City's interests in preserving the character

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and quality of its residential communities and in regulating its commercial parts. The court held that the ordinance only incidentally affected First Amendment rights and that no taking of property or other deprivation of due process or equal protection had occurred.

The Supreme Court affirmed, holding that the zoning restrictions did not violate First Amendment freedoms or equal protection guaranties, and also concluding that the 90 day period for termination of the nonconforming uses was reasonable.

Capitol Hill Community Council v. Superintendent of Buildings

The Capitol Hill Community Council appealed to the Hearing Examiner from a determination of the Superintendent of Buildings to issue a use permit for a condominium project (Somerset) to be located at 13th Avenue East and East Republican Street. Appellant's objections to the project centered upon aesthetics, land use, population and housing, parking, microclimate and shadows.

The Hearing Examiner concluded that the Superintendent of Buildings failed to persuade him that he understood the degree of discretion which was vested in him pursuant to the State Environmental Policy Act to condition or deny a permit based upon adverse environmental impacts disclosed in the environmental impact statement, and remanded the matter to the Superintendent for further consideration. Subsequent to the remand, a new Superintendent of Buildings was appointed, who, after a complete review of the record, granted the permit with specific conditions to ameliorate adverse impacts.

Downtown Traffic Planning Committee v. Royer and the Municipality of Metropolitan Seattle

King County Superior Court Cause No. 849519

Plaintiffs, a group of people interested in downtown Seattle, commenced an action to enjoin the City from implementing and operating an exclusive weekday peak-hour central business district transit lane proposal on Second and Fourth Avenues, on grounds that the proposal was a major action significantly affecting the

quality of the environment requiring preparation and circulation of an environmental impact statement. Plaintiffs sought a temporary restraining order, which was denied, and a temporary injunction. Superior Court Judge T. Patrick Corbett concluded, for purposes of the motion for temporary injunction, that the actions of the City and METRO in implementing the exclusive bus lane proposal were exempted by WAC 197-10-070(1) from the threshold determination and EIS requirements of the State Environmental Policy Act and held that plaintiffs had not made a case for issuance of a temporary injunction. Plaintiffs sought review of the denial of the temporary injunction in the Supreme Court, which was denied. Thereafter, a final order was entered dismissing the case, and plaintiffs have appealed to the Washington State Supreme Court.

Dunstan v. City

King County Superior Court Cause No. 814283

In this case, plaintiff applied for a building permit for a restaurant to be constructed adjacent to the Hiram Chittenden Locks. Following preparation of an environmental impact statement, the City's Superintendent of Buildings issued a permit for a restaurant, but modified it so as to eliminate a lower level, a patio-deck area and a fast food service preparation area in order to mitigate adverse environmental impacts perceived from the application. Plaintiff failed to secure the necessary financing; his mortgagor foreclosed and plaintiff's interest in the property was thereafter assigned to another who constructed Hiram's Restaurant on the site. Plaintiff sued the City for damages, alleging arbitrary and capricious action in refusing to approve the plans as filed and also alleging tortious interference with business relationships.

On motion for summary judgment, Superior Court Judge Jack Scholfield found that the City was arbitrary and capricious in its actions on the permit application, but held also that plaintiff's action was barred by the sixty (60) day statute of limitations of RCW 43.21C.080. The Court also held that in any event there was no cause of action for damages even when the City is found to be arbitrary and capricious if its action was taken in good faith, and that plaintiff's remedy was to seek immediate judicial review and reversal of the City's action, rather than suing for damages two years after the action was taken.

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Leach and Edwards v. City

King County Superior Court Cause No. 840266

Plaintiff sought a judgment declaring the Housing Code unconstitutional. The action was dismissed on December 12, 1978. Notice of Appeal to the Supreme Court was filed in early 1979.

Oden Investment Company v. City

King County Superior Court Cause No. 847029

This was a certiorari action in which a developer challenged the City's denial of a building permit for a high-rise condominium complex on Queen Anne Hill. The City's denial of the permit was based upon environmental grounds.

The City's motion to dismiss, originally denied, was granted by Superior Court Judge Warren Chan on reconsideration following trial. His ruling was based on Vance v. Seattle (18 Wn.App. 418), that is that the permit applicant was required to seek judicial review within twenty (20) days of the City's action.

Pentagram Corporation v. City Council

King County Superior Court Cause No. 853856

The Pentagram Corporation, owern of the Space Needle, sought a "special building permit" pursuant to Sec. 308 of the Building Code to allow the construction of an additional restaurant at the 100 foot level of the Space Needle. The structure was originally constructed under a special permit, as it does not conform in all respects to the Building Code.

The applicant contended that the City Council was bound to approve the permit, unless it felt that the life safety provisions of the application failed to provide equal or better protection to the public than strict compliance with the Code. The City Council, however, was advised that approval of the permit was discretionary, and that it could be denied if they felt that such construction was not in the public interest. The permit was denied, and Pentagram has commenced an action in court to require the permit to be approved.

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Polygon Corporation v. Seattle

90 Wn.2d 59

Polygon Corporation commenced this action to review a decision of the Superintendent of Buildings denying its application for a building permit for an apartment house in the vicinity of the south slope of Queen Anne Hill. The application complied with all building and zoning requirements, and the permit was denied solely on the basis of adverse environmental impacts pursuant to the State Environmental Policy Act (SEPA).

Superior Court Judge Carolyn R. Dimmick denied Polygon's petition for a writ of mandamus and granted the City's motion for summary judgment. On appeal the Supreme Court affirmed, holding that: (1) the State Environmental Policy Act conferred discretion on the City to deny the permit on the basis of adverse environmental impacts; (2) SEPA does not unlawfully delegate legislature power; (3) the appearance of fairness doctrine is not applicable to the permit process, where no hearing is involved; (4) Polygon's allegations of partiality precluding fair consideration of the application were not established; (5) the "clearly erroneous" standard of judicial review was applicable; and (6) denial of the permit on the basis of adverse environmental impacts was not clearly erroneous. Amendments to SEPA during 1977 now require the City to adopt written environmental standards and to base the conditioning or denial of permits upon such standards, and an appeal to the City Council from such action was also required.

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Save Sicks Stadium Committee v. City of Seattle

King County Superior Court Cause No. 851586

This action was commenced by a group of citizens interested in preserving Sicks Seattle Stadium as a sports facility, to prevent the City from selling the City owned property and permitting demolition of the stadium without first preparing, circulating and filing an environmental impact statement (EIS). The City contended that the sale of the facility was categorically exempt from the procedural requirements of the State Environmental Policy Act (SEPA), although an EIS would be required prior to demolition.

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Plaintiffs moved for a temporary injunction which was denied by Superior Court Judge Norman B. Ackley, who held that the sale of the stadium was exempt from SEPA under a provision which exempts "the sale, transfer or exchange of any public] owned real property, but only if the property is n . subject to an authorized public use." The Court ruled that because the stadium had fallen into disuse due to construction of the Kingdome and other factors, it was not "subject to an authorized public use". The stadium was sold to Rainier Electronics Park and was demolished early in 1979.

Seattle University v. U.S. Postal Service (City of Seattle, Intervenor)

U.S. District Court (W.D. WASH) No. C-78-357

The U.S. Postal Service proposed to construct the East Carrier Annex on the site of Old Pacific School, near Seattle University. Seattle University commenced this action, alleging that the Postal Service had failed to comply with its own procedures promulgated pursuant to the National Environmental Policy Act (NEPA). Specifically it was alleged that the assessments upon which a declaration of no significant impact (DNSI) was based were insufficient to support the DNSI, and that an environmental impact statement would be required. The City intervened, alleging that construction of a federal postal facility in an area zoned for high density residential uses would prima facie have a significant impact upon the environment.

The Court granted a motion for a temporary injunction, concluding that the plaintiffs were likely to prevail on their allegations. No further action was taken on the project during 1978.

State of Washington and Board of Regents of the University of Washington v. City of Seattle

King County Superior Court Cause No. 844536
Washington Supreme Court No. 45866

In this case the City proposed to designate the Skinner Building and the Fifth Avenue Theatre, located therein, as landmarks under the City's Landmarks Preservation Ordinance. Following such nomination, the State and the Board of Regents filed suit for declaratory and injunctive relief alleging permanent and irreparable

injury "by reason of their inability to carry out their responsibilities and sovereign duties with respect to properties owned by the State and its universities except as those actions might be approved by an agency of The City of Seattle."

Superior Court Judge T. Patrick Corbett concluded, after argument of a motion for summary judgment, that the law under which the Board of Regents owns and operates this State property is a general law which "cannot be affected by the special laws that are authorized by the Legislature for a city to enforce either by way of its Police Department or by special authority of the Legislature." The Court further concluded that under the State Environmental Policy Act the State of Washington is charged with determining whether or not its property is an historical landmark, and, if so, what must be done to preserve it. Recognizing that the City of Seattle's Landmark Preservation Ordinance is also intended to designate and regulate historical landmarks, the Court held that any conflict involved in both the State and the City's having such responsibilities must be resolved in favor of the State. Thus, the Court ordered that the City is without authority under the Landmarks Preservation Ordinance to regulate the University of Washington Board of Regents or its lessees acting under the authority of the State with respect to the management of the Metropolitan Tract Properties. The City has filed an appeal to the Supreme Court.

UTILITIES

City of Portland v. Bonneville Power Administration, et al.

In late 1977, the City of Portland commenced two suits against the Bonneville Power Administration in the Federal District Court of Oregon. In the second suit, the City of Portland alleged that all BPA contracts entered into since 1970 were void as not being in compliance with the National Environmental Policy Act (NEPA).

In the first action, the City of Portland alleged that as a municipal corporation, it should be accorded preference in the sale of federal power and that existing procedures for marketing federal power be set aside since BPA had not previously undertaken allocation of power in compliance with constitutional due process standards.

BPA was in fact at that time in the process of a comprehensive allocation procedure, and the City of Portland had not itself undertaken efforts to establish a utility system capable of receiving and distributing any power it might receive from BPA. All defendants in the case - which by now included all public agency and direct service industry customers of BPA (including Seattle City Light) - moved for dismissal or stay of proceedings of the due process case in late 1978, consideration of the NEPA case meanwhile having been deferred.

On December 27, 1978, Judge Takasugi of the District Court orally ruled that he intended to dismiss the due process case since it was not "ripe" or ready for determination since the City of Portland was not in a position to utilize any power should the Administrator make an allocation.

Federal Energy Regulatory Commission (FERC) - High Ross

On August 8, 1978 FERC filed a supplemental order confirming its earlier order of July 5, 1977, which authorized the raising of the height of Ross Dam so as to provide additional power and energy for the City of Seattle. Shortly thereafter, groups of both private Canadian and American intervenors, together with certain Indian tribal communities, filed appeals from such order to the Circuit Court of Appeals for the District of Columbia, where the matter is now pending.

Hearde v. City

King County Superior Court Cause No. 834898

Because of an extraordinary drought which adversely impacted reservoirs of the City's hydroelectric system in early 1977, massive quantities of high-cost power were required to be purchased in order to meet loads on the Seattle system. Since existing revenues were inadequate, such expenditure had to be funded by an emergency six-month drought surcharge which was applied to all City Light customers.

A class action lawsuit was filed to contest the surcharge and following extensive discovery proceedings, Judge Barbara Rothstein of King County Superior Court held that actions of City officials in purchasing additional power during the drought were proper and that the imposition of such surcharge on all power billings on and after June 1, 1977 through November 31, 1977 was valid.

Water District No. 75 v. City of Seattle

King County Superior Court Cause No. 779669
Washington State Supreme Court 44579

Water District No. 75, one of approximately 35 wholesale water customers of Seattle's water system, filed suit against the City alleging that, in view of its substantial water storage facilities, water rates to it were unreasonably high as compared to other water purveyors without storage facilities. The district also alleged that the overall level of rates to all purveyors was unreasonably excessive, and that the inclusion in such rates of an amount to compensate for the City's B&O tax was improper.

In 1978, the State Supreme Court reversed a rule of King County Superior Court which had held that Seattle's rate schedule was unreasonably excessive because of the district's storage facilities. The court held that the evidence indicated that Seattle's capability to serve the district complied with the City's uniform system design criteria to all purveyors, and did not justify a preferential rate. The court also held that the allocation of costs of the new Tolt Reservoir facilities to water purveyors predicated upon actual use data was proper; and that rates to wholesale customers could be established on a return-on-investment theory as distinguished from cost basis rate concepts applied to retail customers. However, the court reversed the lower court and held that Seattle could not include an amount to reflect the City's utilities excise tax imposed on the gross revenues of the water system in rates to non-resident City wholesale customers.

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Dulmage v. City, et al.

King County Superior Court Cause No. 792007
Court of Appeals No. 4679-I

Dulmage v. City, et al.

King County Superior Court Cause No. 799218

Both cases arose from the dismissal of plaintiff from the position of Operations Manager in the City's data processing unit, then in the Department of General Services. In the first case referred to above, plaintiff had appealed his dismissal to the Civil Service Commission. The Commission found insufficient evidence to sustain the dismissal and ordered reinstatement; plaintiff was given back-pay for the period of unemployment during the protracted hearing process.

While the hearing regarding the dismissal was in progress, the City Council, upon the Mayor's recommendation, effected a reorganization of the unit, resulting in a substantial upgrading of top management by creating, among other positions, a position for a Data Processing Administrator with significantly greater responsibilities and higher salary than Operations Manager. Upon reinstatement after hearing, plaintiff claimed a right to the new position and appealed denial thereof to the Civil Service Commission. The Commission found the new position considerably different than plaintiff's original position (now subordinate to the Administrator) and denied plaintiff's claim to the new position with the attendant pay increment.

Plaintiff sought review of such decision in Superior Court. The court sustained the action, finding the same was not arbitrary or capricious. Plaintiff appealed the trial court's decision to the Court of Appeals which affirmed the trial court's decision.

In the second case referred to above, during initial hearings of the Civil Service Commission regarding his dismissal, plaintiff sought damages from the City and from several past and present City officers and employees alleging a conspiracy to defame him by libel and slander in their actions leading to his dismissal. In that action, plaintiff also alleged breach of his employment "contract" and violation of his civil rights under 42 U.S.C. §§ 1983, 1985, and asked for punitive damages and considerable sums for attorney's fees and costs.

During pre-trial proceedings, the City obtained dismissal of a number of the causes of action, including those alleging violation of plaintiff's civil rights and defamation. Upon trial of the matter, the remaining causes of action were dismissed on the City's motion and judgment in the City's favor was entered. The court specifically found that the alleged wrongful actions of City officers and employees were in fact taken in good faith. The appeal period passed without action by plaintiff.

Special Assistant City Attorney, Allan W. Munro, tried and argued both cases.

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III.

SPECIAL PROJECTS

Style Manual

During 1978 the first Draft of the Legislation Drafting Style Manual was circulated to all city departments for review and comment. This manual is designed to assist departments in preparing legislation using standard, legally acceptable language and format. During 1979 a final manual will be printed and explanatory training seminars will be held for interested city personnel. Departments' use of this manual will ultimately reduce the need for the Law Department to redraft proposed legislation.

Codification Project

In late 1977 the Law Department entered into a contract with Book Publishing Company to codify all City Ordinances. The Department has reviewed and approved an organizational outline of the new Municipal Code. It is anticipated that the new code will be available for adoption by the Mayor and City Council in late 1979 or early 1980. The code will consolidate all general ordinances of the City in a logical manner providing an invaluable reference document for City Departments and the public.

Battered Women's Project

The Battered Women's Project was initiated in June, 1978 under the direction of Sally Buckley, a CETA Research Aide and Paul Bernstein, Director of the Criminal Division. The project screens about 30 police reports a week involving

female victims of domestic violence. Victims are usually contacted by a project member unless the victim has contacted the project prior to filing a report with the police department. The victim is interviewed in order for the project to gain more specific information about the reported incident, and the victim's other needs. The criminal justice system is explained to the victim and the victim is referred to other support agencies if they need additional services. When the case is set for trial, the project member assures that the victim will be there and assists the victim during the prosecution. The project also works with the Seattle Police Department to sensitize officers to the needs of victims.

With this support victims are better prepared witnesses and are able to provide better testimony resulting in more prosecutions (see IV STATISTICS).

Aggressive Prosecutor Project

Mid year 1978 the Criminal Division launched an Aggressive Prosecutor Project. The project identified municipal court cases which need special work in court preparation. Such cases may need special evidence preparation or special preparation of witnesses.

Particular emphasis has been placed on domestic violence cases during 1978.

In addition, the Aggressive Prosecutor has been working closely with the Seattle Police Department providing instruction in the Seattle Police Training Center's Advanced Training program. This instruction centers around the most critical city criminal statutes that police officers and prosecutors have to deal with.

female victims of domestic violence. Victims are usually contacted by a project member unless the victim has contacted the project prior to filing a report with the police department. The victim is interviewed in order for the project to gain more specific information about the reported incident, and the victim's other needs. The criminal justice system is explained to the victim and the victim is referred to other support agencies if they need additional services. When the case is set for trial, the project member assures that the victim will be there and assists the victim during the prosecution. The project also works with the Seattle Police Department to sensitize officers to the needs of victims.

With this support victims are better prepared witnesses and are able to provide better testimony resulting in more prosecutions (see IV STATISTICS).

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1979 Legislative Package

During 1978 this Department prepared several major pieces of legislation to be presented to the 1979 Session of the State Legislature. The passage of such legislation - limitations on Municipal tort liability and LEOFF reform - will be of benefit to the City by reducing costs and improving City operations.

Other Major Projects

During 1978 the Law Department assisted the City Council and City Departments in several major projects.

- The Department assisted in the preparation of the "Personnel Ordinance" implementing 1977 Charter Amendment No. 5. This ordinance establishes a basic personnel system based on merit principles for the city. The Ordinance is a major change for the City and required numerous public hearings, committee and task force meetings, and drafting and redrafting of proposed legislation. The process culminated in a request by the City for a Declaratory Judgment from the Superior Court.

- The Department assisted in the preparation of several ordinances implementing 1977 Charter Amendments Nos. 1, 2 and 4 which provide the City through its ordinance procedures the opportunity to modify the duties and responsibilities of the Departments of Building, Engineering, Water and Light which had previously been charter established departments under the authority of the Board of Public Works.

- The City's Traffic Code was completely revised. Final legislation will be considered in the first quarter of 1979.

- The City's Ordinance 105735 complying with the State Environmental Policy Act (SEPA) was completely revised by Ordinance 107501 in response to the State's 1977 amendments to SEPA. In addition, the City Attorney's Office provided primary assistance in developing the Environmental Policies Ordinance 107678.

- The City reevaluated Forward Thrust Parks and Recreation Projects in 1978. An ordinance abandoning certain infeasible projects and reallocating funds and a detailed State Audit of the City's Parks and Recreation Forward Thrust projects required many hours of support from the Law Department.

- A Westlake Project Legal Task Force was formed in January 1978 to investigate and deal with the issues surrounding the Westlake Project. This project melds public and private financing of a major downtown Park, Museum and retail development.

- The ramming of the West Seattle Bridge by the Freighter Chevez in May, 1978, required extensive involvement of the Department on two fronts: (1) Filing suit against the Chevez, et al., to recover damages sustained to the bridge by the City; and (2) the nearly full time support of an attorney for the development of options to rebuild the bridge.

- The Law Department prepared the final draft of the City's Energy Code which was presented to the City Council early in 1979. The Code is expected to be a major element in the City's Energy Conservation Program in years to come.

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STATISTICS

CLAIMS IN 1978

Claims on file, January 1, 1978	2365
Claims filed during 1978	1123
Suits initiated during 1978 (that were originally claims)	97
Claims closed without payment 1978	810
Claims paid \$2500 or less during 1978	649
Claims paid \$2501 or over during 1978	37
Total dollar amount paid in claims during 1978	\$433,313
Claims on file, January 1, 1979	1895

DAMAGE LAWSUITS 1978

During 1978, 47 cases were either dismissed on motion from the City or the City received a defense verdict. The City paid \$27,815.61 pursuant to judgments in 12 cases. 28 cases were settled prior to judgment for a total of \$497,307.39. The following table shows payments made by department.

<u>Department</u>	<u>Number</u>	<u>Paid</u>
Building	5	200,000.00
Community Development	1	-----
Engineering	18	18,886.74
Executive	1	-----
Fire	1	-----
Health	2	11,649.44
Lighting	10	203,201.70
Parks & Recreation	1	-----
Police	22	2,095.00
Seattle Center	1	302.30
Transportation	5	12,950.04
Water	5	975.00
Vehicle Fleet (All departments)	14	<u>23,916.85</u>
		473,977.07
Metro Transit	12	51,146.40

PROSECUTIONS IN MUNICIPAL COURT

During 1978, the Criminal Division handled calendars involving 82,808 defendants in Municipal Court resulting in the imposition of fines (including penalty assessments) in the amount of \$1,998,926.

During 1978, legal action was completed on 85 cases involving violations of Housing Code.

CIVIL CASES - CITY A PARTY

The following Civil Cases in which the City was a party were filed in 1978.

<u>Type of Case</u>	<u>City Defendant</u>	<u>City Plaintiff</u>
<u>U.S. District Court</u>		
Collection		1
Discrimination	2	
LEOFF/Retirement	3	
Extra Ordinary Remedy		1
Anti Trust		1
<u>Superior Court</u>		
Condemnation	5	
Quiet Title	2	
Zoning/Subdivision	10	
Environmental Procedures	1	
Housing Code Violations		6
Abatement	1	
Street Use Vacation	2	
Mortgage foreclosure/liens		16
Property Exchanges	3	
Property Damage	29	15
Collections		55
Personal Injury	47	
False Arrest/Imprisonment	32	
Wrongful Death	5	
Extraordinary Remedies	32	

Type of
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<u>Type of Case</u>	<u>City Defendant</u>	<u>City Plaintiff</u>
<u>Superior Court (cont.)</u>		
Ordinance Challenges	2	
Contract Disputes	5	
License Revocations	2	
Labor	5	1
Discrimination	5	
LEOFF/Retirement	2	
Declaratory Judgments	1	1
<u>Municipal Court</u>		
Housing Code Violations		79
Collections		5
License Revocations		10
Discrimination	1	1
<u>District Court Justice</u>		
Property Exchange	2	
Property Damage	13	
Collections		5
<u>Administrative Proceedings*</u>		
Zoning/Subdivisions	6	
Environmental Procedures	19	1
Shorelines	5	
Labor	12	2
Discrimination	6	
Workman's Compensation	10	
U. S. Customs		1

*The Law Department does not represent City Departments in all administrative procedures - Numbers reflect only those handled by the Law Department.

BATTERED WOMEN'S PROJECT

Project began June 1, 1978

Total Cases	715
Currently Active Cases	186
Cases not fileable offenses	20
Victim refuses to prosecute	98
No response from victim after attempts to contact	143
Referred to other agencies	28
Cases dismissed prior to trial	81
Not guilty (or dismissed after testimony)	20
Guilty	104
Deferred findings	35