

News & Insights

Dykema Secures Preliminary Injunction Against the City of San Diego for the Associated General Contractors of America

June 28, 2019

Dykema, a leading national law firm, represented the Associated General Contractors of America, San Diego Chapter and Associated General Contractors of America Apprenticeship Program Trust (AGC) in securing a preliminary injunction in the Superior Court of California, San Diego County, precluding the City from applying conditions disallowed by a San Diego Ordinance.

The City of San Diego sought contract proposals to build its North City Pure Water Facility, which is valued at over \$400 Million. Dykema filed for a preliminary injunction on behalf of the AGC, who sought only to have its member contractors and its state-certified apprentices be given the same opportunity as union contractors and union apprentices to participate in this large City project. Under state law, all state-approved apprentice programs are equal in satisfying the need for having a skilled and trained workforce on publicly-funded projects. The Court ruled that the City of San Diego violated its own Fair and Open Competition Ordinance, which bans the City from discriminating in favor of union contractors and union apprentices on City construction projects.

The City's Request for Proposals for the North City Pure Water Facility specified that contractors bidding on the project were required to have their apprentices be registered in a Joint Labor Management Apprentice Program (JLMAP). This contract requirement would exclude non-union apprentice workers who receive their training through non-union apprentice programs, including the AGC's Apprentice Program. It would also exclude contractors who use non-union apprentices. Arguing that the project could be receiving loaned funds from the State of California, the City claimed that an exception to the City's ordinance may apply.

Rejecting those arguments, however, on June 25, the Court determined that the City made no showing that the State has conditioned any forthcoming loans on such a requirement and ruled that the City cannot ignore its own City ordinance that states, "[T]he City should treat union and non-union Contractors equally and not give special advantages to either. All City Construction Project job opportunities should be open equally to both union and non-union workers."

"We are pleased that the Court upheld established law that ensures all apprentices have the opportunity to secure their own City's construction work, and also applied the mandate that the Ordinance be applied in a manner respecting the express intent of San Diego's voters and of the Ordinance" said James Azadian, leader of the Dykema litigation team. "Now *all* contractors and apprentices can compete on equal ground for this important project, which is exactly what the City of San Diego voters mandated when they overwhelmingly voted-in this free- and fair-competition ordinance almost a decade ago." Azadian added, "it is unfortunate that taxpayers and workers in the City of San Diego had to fight their own City in court to bring about a common-sense result that is based on a simple reading of the City's own straightforward ordinance."

The Dykema team representing Associated General Contractors of America, San Diego Chapter and Associated General Contractors of America Apprenticeship Program Trust included Azadian and Dykema labor and employment litigators Robert Boonin and Noah Hurwitz.

Dykema has one of the most experienced, sophisticated and successful litigation and trial practices in the nation. The firm's litigators are experienced in representing a diverse client base in nearly every substantive area of the law, through trial and appeal. Dykema's labor and employment litigators have decades of experience representing a diverse group of businesses in fields ranging from banking and finance to transportation and education, from retailing and manufacturing to construction and engineering.

Dykema Secures Preliminary Injunction Against the City of San Diego for the Associated General Contractors of America (Cont.)

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Practice Areas

Business & Commercial

Labor & Employment

Litigation