



# **Office of the City Attorney**

**Council Presentation**

**July 15, 2003**

# The City Attorney's Role



- The City of Berkeley is the City Attorney's client as embodied in the Council, Manager, Commissions, and staff.
- Public lawyers have an ethical duty to the public in representing the City.

# City Attorney's Office As City's Full Service Law Firm

- Prosecution of suits
- Defense of lawsuits
- Personnel and labor relations
- Taxation, fees and assessments
- Contracting and competitive bidding
- Land use regulation
- Tort liability claims
- Police practices
- Campaign practices
- Council legislation
- Ordinance enforcement
- Open meetings, public records, conflicts of interest

# City Attorney Administration of Claims Against City

- The City Attorney's office has Council-delegated authority to investigate and resolve claims.
- Approximately 300 claims are filed each year.
- Council receives quarterly reports on claims.
- City staff is advised of the parts of their operations triggering liability.
- City Attorney recommends preventative actions.

# City Attorney's Staff Lawyers Litigate City Suits

- The City Attorney's office handles virtually all cases against and on behalf of the City with its staff attorneys.
- City cases are pending in both state and federal courts.
- City cases are also pending at both the trial and appellate court level.
- City cases often involve novel constitutional and statutory issues affecting a wide range of areas.
- Caseload is typically between 90 and 100 cases.

# City Attorney - Division of Work

(8 staff attorneys supervised by City Attorney)

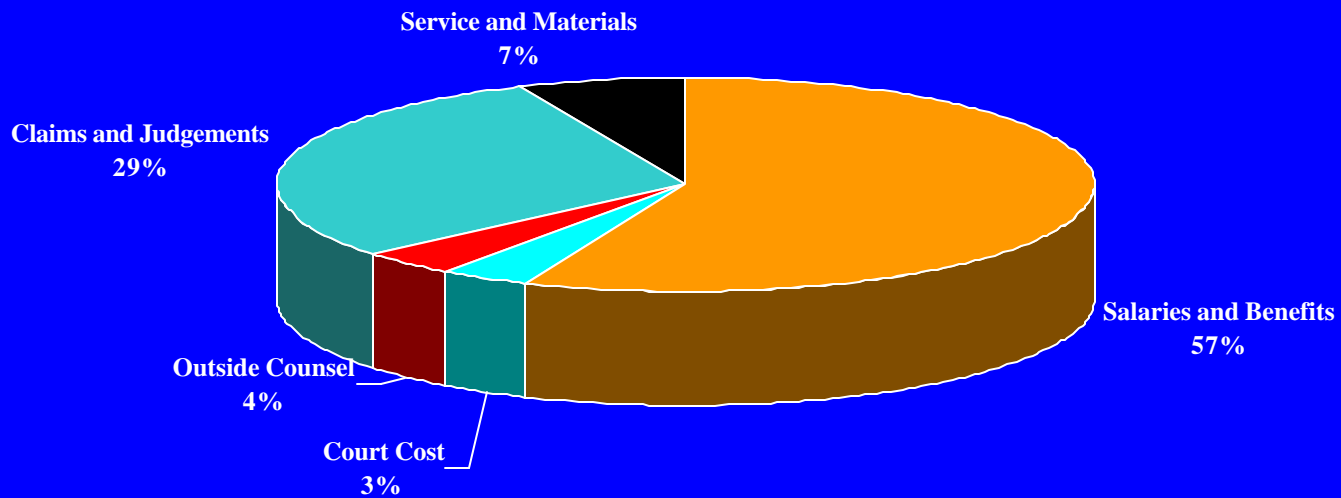
- Personnel, Labor relations, Public records, PRC (1.5 attys.)
- ADA, Marina, Parks and Recreation (.5 atty.)
- FCPC, Health, Leases, Library etc. (1 atty.)
- Contracts, competitive bidding, public works (1 atty.)
- Land use, taxes, fees, code enforcement housing (2 attys.)
- Tort claims and law suits, police, traffic parking (2 attys.)

# Budgetary Considerations-1

City Attorney's Office budget contains five components:

- A Staffing
- B Supplies (Includes law library)
- C Court Costs
- D Outside Counsel
- E Claims and Judgments

# FY 2004 Adopted Budget by Category



# Budgetary Considerations- 2

- Decreasing staff attorneys increases outside counsel and is not cost efficient.
- Decreasing outside counsel would require an increase in staff or can cause increased liability.
- Decreasing staff or outside counsel increases risk of liability.
- Decrease in legal costs requires decrease in City activities causing legal costs and liability.

# Significant 2002-03 Victories

- In RUI v. City of Berkeley, federal district court upheld constitutionality of Marina Zone amendment to Living Wage ordinance.
- In Evans v. City of Berkeley, published California Court of Appeal decision upheld the City conditioning of subsidy on compliance with City's non-discrimination policy.
- In Hillside v. City of Berkeley, federal district court rejected reverse racial discrimination suit by contractor.
- In Haas v. Meisner, published appellate decision disallowed retired reserve police officers to carry concealed weapons state-wide.
- Won four employment and several zoning suits.
- Obtained voluntary dismissals in three police cases after vigorous defense.

# Other Accomplishments -1

- Successfully closed liquor store and massage parlor as public nuisances.
- Prepared tax and bond ballot measures in Nov. 02.
- Helped establish and defended suits against new Hills Fire Station.
- Drafted ordinance, implementing procedures and training manual on new civil penalty system for enforcement of ordinances and trained staff.
- City attorneys now attend and advise at all ZAB and LPC hearings.

# Other Accomplishments -2

- Prepared new hate crimes training bulletins for police and public, conducted police training and participated in hate crimes town hall.
- Conducted training for City commissioners in applicable laws.
- Helped obtain State approval of City's Housing Element of General Plan.
- Prepared numerous ordinances and amendments including ones concerning creeks, tobacco retailers, barbecuing in the right of way, zoning, and landmarks.

# Other Accomplishments -3

- Helped to obtain City compensation for Vista College acquisition of City lease.
- Helped City acquire property at 1947 Center street.
- Reviewed 440 election campaign disclosure statements for the November 2002 election and resolved complaints re compliance.
- Helped implement new regulations to protect medical information in City files.
- Helped to establish new state-mandated procedures to review PRC decisions.

# Conclusion

- Despite formidable challenges, the City has been able to achieve goals set by the City Council almost twenty years ago.
- Skilled and experienced staff lawyers handle virtually all the City's legal needs with limited reliance on outside counsel.
- Favorable outcomes in litigated cases are the norm despite the cutting edge nature of many issues.