

Haynes and Boone Helps Costa Mesa Successfully Defend City Ordinance

June 10, 2020

PRACTICES Appellate

The U.S. Court of Appeals for the Ninth Circuit affirmed a victory for the City of Costa and its sober living home ordinances on June 9, in *SoCal Recovery, LLC v. City of Costa Mesa*.

In the trial court, an unlicensed sober living home operator and one of its residents asked the court to stop the City from enforcing its ordinances against unlicensed sober living homes in single- and multi- family residential zones within the City, claiming that the City's actions violated the Fair Housing Act. The trial court denied the injunction request.

Plaintiffs appealed to the Ninth Circuit. On appeal, plaintiffs argued that one of their unlicensed sober living homes should have been excused from the separation requirement in City Ordinance 14-13, which requires sober living homes to be located 650 feet away from other sober living homes and licensed drug or alcohol abuse treatment facilities.

A unanimous panel of judges rejected that argument and concluded that the trial court appropriately denied the plaintiffs' request for an injunction. The panel agreed with the district court that the plaintiffs had not shown two of the four required factors for obtaining an injunction. First, they had not established that the balance of public interest factors weighed in their favor; that is, the plaintiffs' interests did not outweigh "the interests of the City in enforcing its ordinances and of the residents of sober living homes and the public at large in preserving the benefits the City ordinances conferred." The Ninth Circuit also concluded that the plaintiffs had failed to show a likelihood of success on the merits in their reasonable accommodation claim because they failed to follow the City's established procedures for requesting a reasonable accommodation.

Haynes Boone Partner M.C. Sungaila and Associate Marco Pulido served as appellate counsel for Costa Mesa, alongside trial counsel Seymour Everett and Christopher Lee at Everett Dorsey, and Costa Mesa City Attorney Kim Barlow of Jones Mayer.

Costa Mesa Mayor Katrina Foley said: "M.C. Sungaila and her team at Haynes Boone were critical to our success. We are grateful for the excellent work M.C. and her team have done on this and other significant cases for the City."

Sungaila has briefed and argued appeals raising cutting-edge and core business issues. Clients call on her to craft approaches to emerging legal issues across multiple cases and jurisdictions and to provide pretrial and trial consultations in cases where an appeal by either side appears inevitable or a "key case" outcome might impact a whole series of cases for a client.

Haynes Boone is an international corporate law firm with offices in Texas, New York, California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With more than 575 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It also was recognized across the board for

excellence in the BTI Consulting Group's 2020 "A-Team" report, which identifies the law firms that in-house counsel commend for providing superior client service.