

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

DECISION ON ADMINISTRATIVE APPEAL

RE: PUBLIC WORKS CASE NO. 2003-007

SAN DIEGO PADRES BALLPARK PROJECT/TAILGATE PARK

On November 13, 2003, the former Acting Director issued a public works coverage determination finding that Petco Park, the ballpark of the San Diego Padres baseball team, and related infrastructure, and the parking lot known as Tailgate Park, was a public work and subject to prevailing wage requirements ("Determination"). San Diego Padres, L.P., owner of the San Diego Padres, ("Padres") and the City of San Diego ("City") filed notices of appeal to the Determination.¹ For the reasons described below, the appeal is granted and the Determination is modified as follows: the scope of the Determination, which is incorporated into this Decision on Administrative Appeal ("Decision"), is narrowed to find only that the construction of Tailgate Park is a public work. No finding is made with regard to any construction at Petco Park itself or its related infrastructure.²

The request for a coverage determination concerned construction of Tailgate Park. Tailgate Park is a public work because it was done under contract and paid for in whole

¹ The notices of appeal raised the following issues: whether expanding the scope of the Determination beyond that specified in the request implicated any due process concerns; and whether a project labor agreement governing the non-Tailgate Park construction involved federal preemption. Given the result reached here that coverage is limited to Tailgate Park only, it is unnecessary to address these issues.

² Padres and City further noted that the requestor, Dennis Bucholz, who only inquired as to Tailgate Park, was not an interested party as defined under California Code of Regulations, title 8, section 16000, because he is not a contractor, worker or awarding body, or representative of such an individual or entity. Rather, he is a member of the community in the vicinity of Tailgate Park. Subsequent to issuance of the Determination, the Division of Labor Standards Enforcement began enforcement proceedings and successfully negotiated the payment of prevailing wages for work at Tailgate Park, leaving no outstanding

or in part out of public funds. To reach this conclusion, it was unnecessary for the Director to determine whether any other construction was also a public work. Therefore, the portion of the Determination finding Tailgate Park to be a public work is affirmed; the portion finding Petco Park and related infrastructure to be a public work is withdrawn.

For this reason, the appeal is granted and the Determination is modified. This Decision constitutes final administrative action in this matter.

Dated: 9/10/07



John C. Duncan, Director

issues to be determined arising out of the request for a coverage determination. This issue is therefore moot.