

# Facts behind \$22 million judgment

By Barrett S. Litt

I was the lead counsel for Shirley and Jason McClure in their recent \$22.5 million case against the City of Long Beach and certain of its officials. I have observed the Press-Telegram's coverage of this case over time and its editorials. You certainly are free to have your opinions, but I believe you and the citizens of Long Beach should form those opinions based on accurate information.

Your coverage indicates there are many facts you and the citizens of Long Beach have not been told by your officials, facts that show this was a high level coordinated effort to prevent the McClures from opening homes for Alzheimer's victims. Let me name just a few:

Before building inspectors ever took action against the McClures, a senior aide to then-Councilman Ray Grabinski told an opposition neighbor, "We are trying to cite her on building codes. Once she gets a state license, she may proceed without local authority."

Starting that day, building inspectors were out in droves and the Building Department spent probably 100 person hours on the McClures in that first week.

On numerous occasions former Councilman Jeff Kellogg wrote, "Unfortunately, the city's only recourse [regarding the McClures' Alzheimer's homes] is to ensure the compliance with local building code regulations." (This was because the city could not raise zoning issues.) The phrase "only recourse" was used over and over by Kellogg and other councilmen or their aides, and was a code word for action taken to stop the homes.

A high aide to then-Planning Director Eugene Zeller told a police officer that "any construction except painting was prohibited [at the McClure homes] because the house was being converted to an Alzheimer's hospice."

John Calhoun, then-Long Beach city attorney, contacted the head of state licensing on several occasions to attempt to persuade him not to license Shirley McClure.

City officials who act at the behest of their constituents, or in concert with others, may have the constituents' or others' intent imputed to them. Numerous neighbors implored their councilmen to stop the McClure homes, and made blatantly anti-Alzheimer's statements, such as "we have

been infested with the Medfly," or such homes are a threat to the "safety of our children." Jeff Kellogg likened it to opening a parole office in the neighborhood.

Councilmen Grabinski and Kellogg met with opposition neighbors and advised them how to go about trying to stop the McClure homes, including calling the police any time they saw someone at the homes. Police were called a dozen times or more in the ensuing three to four weeks.

The Long Beach Gas and Fire departments both took actions they themselves described as exceptional against the McClures at the behest of the Building Department.

When new owners purchased the McClure homes, none was required to do any of the work imposed on the McClures. When they did the work voluntarily, they were allowed to do so just by going to the Building Department and getting a permit, whereas the McClures could not pull their own permits and were required to submit full architectural plans that would have to go through an extensive review. No new owners were required to do the same. One new owner had to have his bank convince the Building Department he was unconnected to Shirley McClure and was not opening Alzheimer's homes before he could get a permit.

The above is a very small sample of the massive evidence against the city, evidence I doubt any of the citizens of Long Beach were ever told about.

This case cost so much money because the city continued its vendetta against Ms. McClure after 1990. It refused to participate in mediation with HUD in 1991, when the whole matter could still have been resolved for \$1 million or less. In 1993, when I met with the city attorneys handling the case, they indicated they would not even consider a figure over six figures. As a result, settlement went nowhere. After 1993, the city spent \$4 million to defend a case that in 1993 could probably have been settled for around \$3 million. In 2000, when I indicated the case might be able to settle for \$10 million, the response was "not interested." The result: a \$22.5 million verdict, and \$4 million and counting in defense fees.

So when the citizens of Long Beach ask whose fault this is, there should be no question about the answer. It is the fault of the city leadership, which acted wrongly in a blatant abuse of power and then refused to acknowledge or remedy its wrongdoing, instead attacking Shirley McClure year after year. It is not the fault of the jury, people who knew nothing about the case before coming into court and worked very long and hard to get a verdict. And it is not over. Ms. McClure's other lawyers and I will be filing a motion for an award of attorney's fee for several million additional dollars.

Isn't it time for the citizens of Long Beach to know the truth? Isn't it time for the city to acknowledge what it did and try to resolve this case and put it to rest before it spends more millions to fight on?

*Barrett S. Litt is a Los Angeles civil rights attorney.*