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Ruling reversal clears way for boxing gym's lawsuit

By [Janine Zuniga](#) ([Contact](#)) Union-Tribune Staff Writer

7:10 p.m. January 22, 2009

NATIONAL CITY – A National City boxing gym challenging the city's eminent domain authority will get to argue its case after all, an appeals court ruled Thursday.

Less than a week after hearing arguments, a three-judge panel of the 4th District Court of Appeals unanimously reversed a lower-court ruling that threw out the Community Youth Athletic Center's lawsuit against the city.

The case was dismissed because a published legal notice seeking residents interested in joining the lawsuit contained wrong deadline dates.

The panel said the lower court should have found there was good reason, or “good cause,” for the publication error. The justices also ordered the lower court to allow the athletic center to republish the legal notice.

“What this means is that we can actually prove this case on its merits and not have it dismissed on a technicality,” said Dana Berliner, an attorney with the Institute for Justice in Arlington, Va., which is arguing the case. “Everyone is very excited that the case is back on track.”

Berliner said she hopes to get the legal notice published soon, and be ready for a trial in the next few months.

Owners of the athletic center, which sits in a redevelopment zone, fear the city will use eminent domain to force them to move. The gym sits in the path of a proposed high-rise condo and retail project on National City Boulevard. The gym owners filed suit in 2007 alleging National City's renewal of its eminent domain authority was unconstitutional.

The lawsuit said the city failed to provide sufficient evidence that 700 properties in the city's redevelopment area are blighted, which is required before they can be taken through eminent domain. The center's lawyers also claimed the city didn't allow enough time for the public to comment on their blight analysis.

A San Diego Superior Court judge dismissed the case in February.

Mayor Ron Morrison said Thursday that the City Council will be discussing the matter during closed session at an upcoming meeting. He said the city followed state law when it recently extended the redevelopment area's blight designation 10 years.

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