

June 10, 1986

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
UNIVERSITY CITY VILLAGE

In January and February of this year, we advised you in closed session regarding the California Supreme Court's decision in the University City Village case, holding that the portion of the lower court judgment enjoining plaintiff from renting except to senior citizens on a nonprofit basis was in error and therefore vacated. The court stated that the conditions of the original conditional use permit are not vague or ambiguous, must be read in conjunction with the application and, therefore, incorporate by reference the terms and definitions of the Federal Housing Act, Title II, Section 231. They held that all the terms and conditions of the CUP would be valid and enforceable against the present owners had not HUD repossessed the project upon default of the developer/owner, thereby extinguishing the existing terms and conditions. Upon acquisition of the project, HUD had the discretion to determine to whom it would sell and the restrictions to be placed on the new purchaser, thereby imposing or reimposing a new set restrictions.

Pursuant to your request, we filed a Petition for Writ of Certiorari with the United States Supreme Court on behalf of the City. The petition was denied without comment on May 27, 1986. Thus, the California Supreme Court's decision remains as the law of the case. Accordingly, the owners may rent to non-seniors and establish rents at whatever rate the market will bear. However, the remaining conditions of the conditional use permit are valid and enforceable, including a prohibition against any new construction or demolition of buildings not conforming to the approved building plan. Any deviation from the plans submitted with the conditional use permit require an amendment to the permit and submission of the plans to the appropriate City agencies for approval.

The City and tenants did succeed in blocking the owners' original plans to convert University City Village apartments to condominiums. The challenge to the San Diego Condominium Conversion Ordinance was abandoned prior to the hearing at the California Supreme Court.

The City was represented in this matter by Deputy City Attorney Nina B. Deane.

Respectfully submitted,
John W. Witt, City Attorney

NBD;jt:Lit.
RC-86-20