

March 23, 1987

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
AMENDING ORDINANCE NO. O-16695 LIMITING BUILDING
PERMITS IN THE PUMP STATION NO. 64 SERVICE AREA

Acting upon a communication item, the Public Services and Safety Committee referred letters from TCS Governmental Consulting, Inc. and the Construction Industry Federation to the City Attorney and City Manager for review. Both are aimed at permitting model homes for construction in face of the present moratorium on building permits on the Pump Station No. 64 service area.

Both letters urge a construction of Ordinance No. O-16695 to allow the construction of model homes by equating them to the "types" of permits referenced in the ordinance that are allowed under the current ban. Under the legal doctrine of ejusdem generis, a canon of construction counselling that general words in a statute apply only to the same class as then enumerated, we cannot adopt such a construction. While the word "types" used in Ordinance No. O-16695 is general, the specific references following it ("such as remodeling, interior or exterior building completion") all refer to existing buildings whereas "model homes" requires original construction.

Secondly both letters urge an emergency ordinance to add model homes by amendment. While we have prepared an amendment which would accomplish this addition for your review, we have been given no facts to justify an emergency measure as contemplated by San Diego City Charter section 17. That section speaks of "immediate preservation of the public peace, property" Such an emergency then refers to an emergency affecting the entire City, not isolated builders of model homes in the Pump Station No. 64 service area.

Accordingly we have prepared the attached ordinance for your review and consideration under San Diego City Charter section 16 and 17 which will require twelve (12) calendar days between introduction and passage effective thirty (30) days from passage.

Respectfully submitted,
JOHN W. WITT
City Attorney

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Attachment

RC-87-12