

July 16, 1987

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
CITY ATTORNEY BUDGET, 1987-88 FISCAL YEAR - LEGAL COUNSEL
SERVICES FOR HOUSING COMMISSION

On June 23, 1987, the attached report from my office was submitted to you. The report concluded that we do not believe that this office can ethically act as legal counsel to nonprofit corporations such as CCDC, SEDC, Data Processing Corporation, the Convention Center Corporation, and Facility and Equipment Leasing Corporation. The issue of whether or not this office can and should provide legal counsel to the Housing Commission was not specifically addressed in the attached report.

This office is the general counsel to the Housing Authority and did provide legal counsel services to the Housing Advisory Board which was the predecessor to the Housing Commission. The Housing Commission was formed in 1979 pursuant to the Housing Authorities Law, and seven citizen members were appointed to the Commission.

This office served as general counsel to the Housing Commission for several months and then advised the City Council that we felt that it would be preferable for the Commission to have its own general counsel. One of the major reasons for our conclusion was the fact that the Housing Commission was made up of citizen members and those members were authorized to make decisions and enter into contracts more or less independent of both the City Council and the Housing Authority.

As you know, earlier this year the Housing Commission was reconstituted so that five members of the City Council have now been appointed as Commissioners on the seven-member board. So long as the Housing Commission is, in effect, controlled by members of the City Council sitting as Commissioners, this office feels that the ethical and compatibility problem of this office serving as general counsel to the Commission is ameliorated.

Therefore, so long as at least four members of the City Council continue to serve on the seven-member Housing Commission, this office would have no ethical or compatibility problem in providing general counsel services to the Commission if the Commission so desires.

However, as you know, the firm of Jennings, Engstrand and Henrickson has acted as general counsel for the Commission for

several years and Larry Marshall and Michael Cowett of that firm have a familiarity with the various Housing Commission contracts and legal issues that this office presently lacks.

If the Housing Commission determines to utilize our office as general counsel to the Commission, it would, therefore, be requested that the law firm of Jennings, Engstrand and Henrickson continue to act in a capacity as special counsel for a period of time necessary to allow this office to familiarize itself with the various legal documents and legal issues affecting Housing Commission activities. It may, in fact, be appropriate to utilize the private law firm as special counsel for an indefinite extended period of time with this office providing general legal counsel and Mr. Marshall and Mr. Cowett providing special legal services in their areas of particular expertise.

Respectfully submitted,
JOHN W. WITT
City Attorney

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Attachment
RC-87-25