

April 20, 1988

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
POTENTIAL INCREASE IN TRANSIENT OCCUPANCY TAX
AND EXPENDITURE OF FUNDS RAISED THEREFROM

By a memorandum dated April 14, 1988, Councilmember Judy McCarty posed several questions regarding the imposition of an increase in the Transient Occupancy Tax and expenditure thereof. Since this subject seems to be of more than passing interest to the entire legislative body, we have issued this report summarizing our views. Mrs. McCarty's questions are attached as Enclosure (1).

I. The City Council may increase the Transient Occupancy Tax by enactment of an ordinance, but if it desires to legislatively designate the specific and precise purpose or purposes for which the money will be spent (other than to cause it to be placed in the City's General Fund for appropriation by the City Council from time to time), the increase will require ratification by a two-thirds majority of the voters.

II. This voter ratification is required by California Constitution, article XIII A (the Jarvis Amendment).

III. The funds raised by an increase in the Transient Occupancy Tax may be used for any public purpose, including those set forth in Mrs. McCarty's memorandum attached as Enclosure (1), subject to the same caveats set forth in Paragraph I of this Report.

IV. Proposition 13 in the June 1978 General Election (Jarvis/Gann) and Proposition 4 in the November 1979 General Election (Gann Limit) both may effect any proposal to legislatively increase the Transient Occupancy Tax. Proposition 62 in the November 1986 General Election is also of some significance.

V. All of those issues were comprehensively addressed in a Report to the Committee on Public Services and Safety from this office dated January 30, 1987, entitled, "Transient Occupancy Tax

Increase - Agenda of February 18, 1987" and Opinion No. 83-6 of this office to (then) City Manager Ray Blair dated August 10, 1983, entitled, "Transient Occupancy Tax (TOT) Increase," copies of which are attached respectively as Enclosures (2) and (3). Our views with respect to the matter expressed therein continue to be the same.

We trust this report is responsive to your questions and needs.

Respectfully submitted,
JOHN W. WITT
City Attorney

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Enclosures (1),(2)&(3)
RC-88-26