

(R-83-1075)

RESOLUTION NUMBER R-257757

Adopted on JAN 04 1983

WHEREAS, LA CASA REYNARD, a Limited Partnership, and LA CASA REALTORS, INC., a California corporation, General Partner, hereafter referred to as "Owner/Permittee," filed an application for permission under Condominium Conversion Permit No. 25-135-0 to convert to condominiums a 34-unit apartment project located on the west side of Reynard Way, more particularly described as lots 165-168, Reynard Hills Unit 3, Map 4605, in existing R-4 Zone; and

WHEREAS, on June 26, 1980, the Planning Commission of The City of San Diego approved Condominium Conversion Permit No. 25-135-0, subject to conditions, pursuant to Sections 101.0990 to 101.0999 of the Municipal Code of The City of San Diego, and

WHEREAS, the Planning Commission of The City of San Diego thereafter made its findings of fact, revoked said Condominium Conversion Permit No. 25-135-0 and recommended that the Final Map, La Casa Reynard Map No. 10241, be rescinded and filed said decision in the office of the City Clerk; and

WHEREAS, on October 28, 1982, pursuant to the provisions of Section 101.0995 of the San Diego Municipal Code, Owner/Permittee, by Robert J. Bryan, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on January 4, 1983; and

WHEREAS, the Council of The City of San Diego received for

its consideration documentary, written and oral testimony and heard from all interested parties present at the public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego as follows:

1. That based on finding that Owner/Permittee has failed to comply with adopted Condition No. 2A of said permit in having failed to pay relocation benefits to three tenants involved in the condominium conversion, the City Council hereby revokes Condominium Conversion Permit No. 25-135-0 and rescinds the final map of La Casa Reynard (Map No. 10241) only insofar as the approval of said map constituted approval of the conversion of the project to a condominium project;

2. That the action of the City Council is supported by minutes, documents and testimony received by the Council, all of which are herein incorporated by reference;

3. That the effective date of the revocation of the Condominium Conversion Permit and rescission of the Final Map shall be February 4, 1983 and use of the property for condominium purposes shall cease as of that date and use of the premises for condominium purposes after the effective date of the revocation of the Condominium Conversion Permit shall be unlawful unless the Owner/Permittee pays relocation benefits to the three involved tenants by the specified date.

BE IT FURTHER RESOLVED, that the appeal of LA CASA REYNARD, a Limited Partnership, and LA CASA REALTORS, INC., a California Corporation, General Partner, by Robert J. Bryan, is denied.

APPROVED: John W. Witt, City Attorney

By Frederick Conrad
Frederick C. Conrad
Chief Deputy City Attorney

FCC:ib
01/07/83
Or.Dept:Clerk
CCP 25-135-0
Map 01241
Form=r.none

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(714) 236-6220

February 3, 1983

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

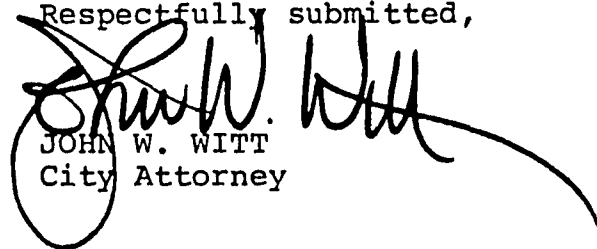
REVOCATION OF CONDOMINIUM PERMIT NO. 25-135-0, LA CASA REYNARD

On January 4, 1983, the Council heard the appeal of the owner/permittee from the decision of the Planning Commission to revoke his condominium conversion permit based on the failure of the permittee to pay relocation payments to tenants. The Council upheld the decision of the Planning Commission and directed that the revocation would be effective in 30 days unless the permittee paid the relocation payments to Mr. Zubel and two other tenants Mr. Zubel informed the Council that he represented.

Following that action by the City Council, the correspondence attached to this report passed between Mr. Zubel and Mr. Dawe, the attorney for the owner/permittee. The attached newspaper article and Mr. Zubel's correspondence appear to indicate that Mr. Zubel has chosen to pursue a different course of action than that provided by the actions of the City Council.

Based on the correspondence of Mr. Dawe, it is our opinion that the condition imposed by the City Council that payment be made to Mr. Zubel and his two clients has been satisfied and the revocation of the condominium permit will not become effective. The fact that Mr. Zubel has chosen not to identify his clients or accept the funds offered by Mr. Dawe does not negate the fact that Mr. Dawe has done all that can reasonably be expected. If any member of the Council feels that further deliberations should be held, the matter should be placed on the docket of a future Council meeting.

Respectfully submitted,


JOHN W. WITT
City Attorney

FCC:ib
641:043.1
Attachments

R- 257757
00197

3311

NORMAN T. SELTZER
 ROBERT CARLAN
 FLOYD WILKINS, JR.
 GERALD L. McMAHON
 REGINALD A. VITEK
 JAMES B. FRANKLIN
 STEPHEN DOUGLAS ROYER
 JAMES B. PERSON
 JEFFREY L. MASON
 BONNIE NELSON READING
 DAVID J. DORNE
 JAMES R. DAWE
 BRIAN T. SELTZER
 TIMOTHY DAVID KELLEY
 D. FREDERICK SHEPTE
 ELIZABETH A. SMITH
 BERNARD W. PORTER, JR.
 JOYCE A. MCOY
 DENNIS J. WICKHAM
 ROBERT W. BLANCHARD
 ANN P. WINEBRENNER
 MARK A. KRASNER
 JULIE P. DUBICK
 IRMA E. GONZALEZ
 PATRICIA J. MINOLA
 RICHARD Y. FUNSTON
 FREDERICK J. STOCKER

LAW OFFICES

SELTZER CAPLAN WILKINS & McMAHON

A PROFESSIONAL CORPORATION
 3003-3043 FOURTH AVENUE
 POST OFFICE BOX X 33999
 SAN DIEGO, CALIFORNIA 92103
 TELEPHONE (619) 291-3003

January 21, 1983

Frederick C. Conrad, Esq.
 Chief Deputy City Attorney
 City Administration Building
 202 "C" Street
 San Diego, CA 92101

re: La Casa Reynard
 Our File No. 30636

Dear Fred:

As you know, on January 4, 1983, the City Council voted five to one to revoke condominium conversion permit No. 25-135-0 unless my client, the owner, paid relocation assistance to the three tenants whom Mr. Zubel informed the Council he represented within 30 days of the City Council decision. Although my client did not and does not admit any liability or responsibility, it, in an effort to compromise, resolve and settle the matter amicably and completely, informed the Council that it would acquiesce to the Council's decision to resolve the matter by the payment of relocation assistance to the three tenants whom Mr. Zubel stated he represented.

In order to comply with the City Council's direction, we requested by letter dated January 4, 1983 (the date of the hearing), that Mr. Zubel provide us with the names of the specified tenants. (Please see Attachment "A" to this letter.) By my letter dated January 13, 1983 to Mr. Zubel, I reiterated my request for the names of the tenants specified by the Council. (Please see Attachment "B.")

Mr. Zubel has failed to provide the names of the tenants specified by the City Council. (Please see Attachments "C" and "D.") He, therefore, unilaterally has made it impossible for my client to perform as requested by the Council.

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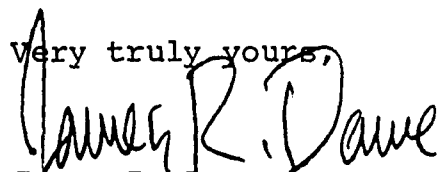
Frederick C. Conrad, Esq.
January 21, 1983
Page two

We, therefore, request that the City determine that La Casa Reynard has complied substantially with the request by the City Council and, therefore, the condominium conversion permit should not be revoked.

As you also may know, Mr. Zubel filed a purported class action lawsuit and alleged that he was filing it on behalf of all tenants who have left, apparently for any reason, all apartment buildings in the City for which the Planning Commission had noticed a condominium conversion permit hearing during the period April 12, 1980, through August 13, 1981. (Please see Attachment "E".) Mr. Zubel also apparently has obtained substantial press coverage of the issue. (Please see attachment "F".)

Please contact me, if (1) you need any further information or (2) we need to take any further action to allow the City to make such a determination.

Very truly yours,



James R. Dawe
SELTZER CAPLAN WILKINS & McMAHON

JRD:lm
Attachments

cc: Mr. Robert J. Bryan

R - 257757

00199

NORMAN T. SELTZER
ROBERT CAPLAN
FLOYD WILKINS, JR.
GERALD L. McMAHON
REGINALD A. VITEK
JAMES B. FRANKLIN
STEPHEN DOUGLAS ROYER
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TELEPHONE (619) 291-3003

January 13, 1983

HAND DELIVER

Stanley F. Zubel, Esq.
110 West "C" Street
Suite 1816
San Diego, California 92101

Re: La Casa Reynard
Our File No. 30636

Dear Mr. Zubel:

I have received your letter dated January 7, 1983. It is my understanding, since you wrote your letter after you received my letter dated January 4, 1983, that you have elected to pursue a remedy other than that offered by the City Council. If such is not the case, I request that you inform me by delivering to my office before 5:00 p.m. on Friday, January 14, 1983, a written confirmation to that effect along with the information requested in my January 4, 1983, letter to you.

Very truly yours



James R. Dawe
SELTZER CAPLAN WILKINS & McMAHON

JRD/tmm

cc: Mr. Robert J. Bryan

ATTACHMENT "B"

R- 257757

00200

STANLEY F. ZUBEL
CHARLES A. VAN DUSEN

LAW OFFICES
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110 WEST C STREET • SUITE 805
SAN DIEGO, CALIFORNIA 92101
(619) 233-1277

OF COUNSEL
ERIC ZUBEL—APC
LAS VEGAS, NEVADA
MEMBER, NEVADA BAR

January 13, 1983

James R. Dawe, Esq.
P.O. Box X 33999
San Diego, California 92103

Re: La Casa Reynard Tenants'
Relocation Allowance.

Dear Mr. Dawe:

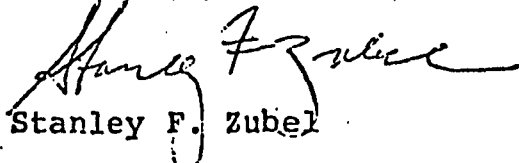
Acknowledging receipt of your most recent correspondence, hand delivered on January 13, 1983, be advised that there has been no "election" of remedies, inasmuch as the City Council has not, and never had, the power to in any fashion, order the payment of relocation assistance allowances.

Revocation of a condominium conversion permit is simply a punitive measure in response to your client's intentional violation of the law. As a "remedy", it is consistent with and parallel to the prosecution of a formal legal action on behalf of all affected tenants; you may be assured that each of these remedies will be diligently and concurrently pursued.

Again, I request you confirm your formal representation of La Casa Reynard.

Sincerely,

ZUBEL & VAN DUSEN


Stanley F. Zubel

SFZ/kw

cc: City Attorney (John W. Witt and Frederick Conrad)
City Council Members
City Planning Department (Lee Okeson)

ATTACHMENT "D"

R - 257757

00201

LAW OFFICES

ZUBEL & VAN DUSEN

110 WEST C STREET • SUITE 805

SAN DIEGO, CALIFORNIA 92101

(619) 233-1277

OF COUNSEL

ERIC ZUBEL—A.P.C.
LAS VEGAS, NEVADA
MEMBER, NEVADA BAR

STANLEY F. ZUBEL
CHARLES A. VAN DUSEN

January 7, 1983

James R. Dawe, Esq.
P.O. Box X 33999
San Diego, California 92103

Re: La Casa Reynard Tenants'
Relocation Assistance Allowance

Dear Mr. Dawe:

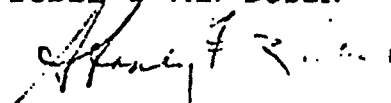
Thank you for your letter dated January 4, 1983, which was received by this office on January 7, 1983, an incredible three (3) days from the date of your postage meter envelope postmark. Unfortunately, this "delay" will prove to be costly to both of us.

Since you did not see fit to communicate your client's intentions upon the conclusion of the January 4, 1983, Council hearing, this office quite reasonably assumed that La Casa Reynard's well established pattern of silence and delay would continue indefinitely. Consequently, on January 6, 1983, Robert J. Bryan was served by mail with a class action complaint in the name of all the former tenants of the La Casa Reynard apartments. Consistent with our letter to Mr. Caplan of October 14, 1982, it is our intention to perfect the rights of all the tenants, irrespective of the fact that, as Councilman Murphy observed, only three (3) of the said tenants were "before the Court" at the Council hearing.

Since your January 4, 1983 letter is the first written communication received from your office, and given the fact that Mr. Bryan has in the past acted in propria persona, kindly indicate if in fact you now formally represent Mr. Bryan and La Casa Reynard. If so, we will, consistent with accepted protocol, direct all future communication to your attention.

Sincerely,

ZUBEL & VAN DUSEN


Stanley F. Zubel

SFZ/kw

cc: City Attorney (John W. Witt and Frederick Conrad)
City Council Members
City Planning Department (Lee Okeson)

R- 257757

ATTACHMENT "C"

00202

(SPACE BELOW FOR FILING STAMP ONLY)

LAW OFFICES
ZUBEL & VAN DUSEN
IN ASSOCIATION
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(619) 233-1277

ORIGINAL FILED BY
G. POTTS, DEPUTY

JAN 5 1983

ROBERT D. ZUMWALT
CLERK, SAN DIEGO COUNTY

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Attorney for _____ Plaintiff _____

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

ALLARD W. JANSEN, individually)
and on behalf of all others)
similarly situated,)
Plaintiff,)
vs.)
LA CASA REYNARD, a limited)
partnership, and Does I through)
CM, inclusive,)
Defendants.)

Case No. 497273
CLASS ACTION COMPLAINT
FOR MONEY DAMAGES

Plaintiff alleges:

I

Plaintiff is, and at all times herein mentioned was, a resident of the City of San Diego, San Diego County, California.

II

Defendant is, and at all times herein mentioned was, a limited partnership duly organized and existing under the laws of the State of California, with its principal of business in the City of San Diego, San Diego County, California.

III

Plaintiff is ignorant of the true names and capacities of the

LUBEL & VAN JUSEN
AN ASSOCIATION
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SAN DIEGO, CALIFORNIA 92101
(619) 233-1277

1 defendants named herein as DOES I through CM, inclusive, and there-
2 fore sues said defendants by such fictitious names. Plaintiff will
3 amend this complaint to allege their true names and capacities when
4 the same have been ascertained.

5 IV

6 Plaintiff brings this action on his own behalf and on behalf of
7 all persons similarly situated. The class which plaintiff
8 represents is composed of all those individuals who were tenants in
9 residential dwelling units located in the City of San Diego, which
10 units were approved by the City of San Diego for conversion to
11 condominiums pursuant to noticed hearing before the Planning
12 Commission occurring between April 12, 1980 and August 13, 1981;
13 which individuals were tenants on the date of mailing of notice of
14 the aforesaid hearing and have since vacated the subject premises.

15 v *→ October 1981 - 1st meeting*

16 The persons comprising the aforesaid class are so numerous,
17 consisting of as many as TEN THOUSAND (10,000) individuals, that the
18 joinder of all such persons is impracticable; the disposition of
19 their claims in a class action is a benefit to the parties and to
20 the court.

21 VI

22 There is a well-defined community of interest in the questions
23 of law and fact involved and affecting the parties to be represented
24 in that the single common issue of fact to be litigated is whether
25 or not members of said class received relocation assistance
26 allowances from the condominium conversion permittees, (DOES I
27 through CM) as required by the then-applicable provisions of the
28 San Diego Municipal Code, to wit, Sections 101.0990, et seq.. Proof

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1 of a common or single state of facts will establish the right of
2 each member of the class to recover. The claims of the plaintiff
3 are typical of those of the class, and plaintiff will fairly and
4 adequately represent the interest of the class.

5 VII

6 There is no plain, speedy, or adequate remedy other than
7 maintenance of this class action since plaintiff is informed and
8 believes that the damage to each plaintiff is relatively small in
9 that the relocation assistance allowance due each such plaintiff is
10 equal to two month's current rent, making it economically unfeasible
11 to pursue remedies other than a class action. Consequently, there
12 would be a failure of justice but for the maintenance of the
13 present class action.

14 VIII

15 Defendants LA CASA REYNARD and DOES I through CM, inclusive,
16 are all those successful condominium conversion applicants,
17 (hereinafter "PERMITTEES") who failed to tender relocation
18 assistance allowances to eligible tenants as identified more
19 particularly in paragraph IV above.

20 IX

21 Plaintiff has incurred and during the pendency of this action
22 will incur expenses for attorney's fees and costs herein. Such
23 attorney's fees and costs will result in a benefit to each of the
24 members of the class. The precise amount of such reasonable
25 attorney's fees and costs is reserved for determination according to
26 proof.

27 WHEREFORE, plaintiff prays judgment as follows:

28 1. For money damages in the amount of two month's current rent

- 1 for each member of the herein described class according to proof;
- 2 2. For interest on said sum at the legal rate, accruing from
- 3 six days after the affected class member vacated the subject
- 4 dwelling unit, to the present;
- 5 3. For the payment of plaintiff's attorney's fees from the
- 6 money recovered for the joint benefit of the class;
- 7 4. For costs of suit herein incurred;
- 8 5. For such other and further relief as the court may deem
- 9 just and proper.

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DATED: January 5, 1973

ZUBEL & VAN DUSEN

By: Stanley F. Zubel
Stanley F. Zubel
Attorneys for Plaintiff

ZUBEL & VAN DUSEN
AN ASSOCIATION
110 WEST C STREET • SUITE 805
SAN DIEGO, CALIFORNIA 92101
(619) 233-1277

R- 257757

00206

Suit Targets Condo Owners

Tenants Would Get Two Months' Rent

By BILL BURRIS

SAN DIEGO DAILY TRANSCRIPT Staff Writer

A San Diego Superior Court lawsuit never expected to come to trial may force scores of San Diego apartment and condominium owners to pay more than \$5 million to about 10,000 former tenants.

The suit, which seeks court-ordered class-action status, has been filed against the limited partnership which secured a permit in 1980 from the City of San Diego to convert the 34-unit La Casa Reynard apartments at 2850 Reynard Way to condominiums.

It would require all apartment owners who secured condominium conversion permits before a 1981 city ordinance amendment to pay the equivalent of two months of rent to tenants who later moved — regardless of their reason for relocation.

The 1981 amendment to the 1979 ordinance requires payment of the two-month rental fee only to those receiving notices requiring them to move because the apartments they have occupied have been converted for condominiums for sale.

Atty. Stanley F. Zubel, who filed the suit for former La Casa Reynard tenant Allard W. Jansen, said relevant issues of law in the case already have been established in hearings of the San Diego Planning Commission and San Diego City Council.

"This is a perfect summary judgment case," he said. "The only issue is whether the landlords paid their tenants after being granted conversion permits before the amendment to the 1979 ordinance became effective."

There is at least one other key issue to be determined by the court. That is whether Zubel's suit will be granted class-action status.

If it is ruled a valid class-action

lawsuit, the judgment applied will affect all former tenants within the class.

If not, Zubel said he will file individual lawsuits against all apartment owners to whom condominium conversion permits were issued while the rent-payment provision of the 1979 ordinance was in effect.

And how does Zubel plan to identify the 10,000 John Doe former apartment occupants who may be entitled to the windfall payments?

Simple.

"We'll just subpoena the city's records," he said. "Each of the applications for conversion of apartments to condos lists the names, addresses and telephone numbers of occupants of the apartments the owners planned to convert."

The Jansen v. La Casa Reynard suit seeks two months of rent for each member of the class with interest accruing from six days after vacation of the premises. Cost of the legal action also is sought from the property owner.

Zubel contends that many apartment owners who secured city permits for condominium conversions during the 1979-81 period, while aware of their obligation, refused to make the two-month rent payment to relocating tenants.

"They have simply stonewalled their tenants and most of them have just given up and gone away," he said. "It is now my intention to get all these unpaid tenants before the court as a class with all the non-paying permittees as co-defendants."

A city Housing Commission representative, who asked not to be identified by name, said many former apartment occupants have complained about not being paid the relocation fee provided in the original ordinance.

"There were a variety of reasons for their not being paid," she said. "For example, many of the owners felt that the ordinance was unfair and that its intent was to provide relocation assistance. In some cases, the units are still being rented as apartments although the conversion permit was issued many months

ago."

ATTACHMENT

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Ty Rogers of the city Planning Department said 66 conversion permits were issued in 1978, 180 in 1979, 87 in 1980 and 8 in 1981. Although the number for 1982 had not been tabulated, it was reported "picking up again."

Rogers said the Planning Department has received a number of phone calls from individuals "wanting to know what their rights are" in regard to relocation payments under the conversion ordinance.

Under current policy, the Housing Commission determines eligibility for relocation payments. Under the previous ordinance, however, each owner had the responsibility to make payments when their tenants relocated.

The La Casa Reynard partnership, with Robert J. Bryan as principal, obtained its conversion permit in 1980 but did not make relocation payments expected by its tenants.

Zubel filed a complaint on their behalf with the Housing Commission, Planning Commission and city attorney's office. Only three tenants were named in the complaint.

The Planning Commission, as previously reported in the *Transcript*, after an Oct. 23 hearing last year voted to revoke La Casa Reynard's conversion permit because the relocation payments had not been made.

La Casa Reynard appealed to the City Council — which gave the owners an extension of time to make payments to the three tenants named.

Zubel felt the council had acted in bad faith in not requiring payments to all La Casa Reynard tenants who had moved.

"The council was selectively enforcing the law, as I see it," he commented. "The council had the power to order the owner to pay all the relocated tenants, but refused. They ruled only on behalf of the three appealing tenants."

Zubel expects some "interesting motions" to be introduced in early law and motion proceedings in conjunction with the suit.

Attys. Robert Caplan and James R. Daw are expected to pitch the motions for Zubel to field before the

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NORMAN T SELTZER
ROBERT CAPLAN
FLOYD WILKINS, JR
GERALD L McMAHON
REGINALD A VITER
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DAVID J DORNE
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D FREDERICK S-EFFE
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January 4, 1983

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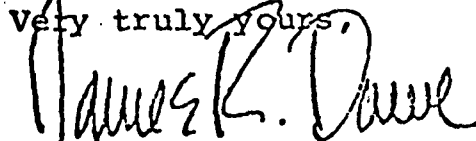
Re: La Casa Reynard
Our File No. 30636

Dear Mr. Zubel:

On January 4, 1983, the City Council voted to revoke the above-referenced condominium conversion permit in 30 days if the owner does not pay the relocation assistance to the three tenants specified by the City Council during its hearing. Since you have never told us which tenants you represent, we hereby request that you provide us immediately with the names and addresses of each of the three tenants. Since the Council indicated that the payment to the three specified tenants would resolve any questions regarding relocation assistance in connection with the above-referenced condominium conversion permit, we request that you provide the information at your earliest convenience.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,



James R. Dawe
SELTZER CAPLAN WILKINS & McMAHON

JRD/tmm

cc: Mr. Robert J. Bryan
City Council Members
City Attorney (Attn: J. Witt and F. Conrad)
City Planning Department (Attn: L. Okeson)

ATTACHMENT "A"

R- 257757
00208

JAN 04 1983

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> VACANT

AUTHENTICATED BY:

BILL CLEATOR

Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Angel L. Portocarrero*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number R-257757 Adopted JAN 04 1983