

RESOLUTION NUMBER R- **270781**

ADOPTED ON APR 18 1988

WHEREAS, the City, in June 1986, entered into an option to lease certain property in Mission Beach Park and the option was exercised and the lease was entered into with Belmont Park Associates on March 5, 1987; and

WHEREAS, pursuant to the terms and conditions of the lease, Belmont Park Associates proceeded with the development of improvements on the Mission Beach Park site and expended approximately \$5 million for such improvements on or before November 3, 1987; and

WHEREAS, the Save Mission Beach Park (Belmont Park) Initiative was approved by the voters at the election of November 3, 1987, which initiative established limitations with regard to retail or commercial use of the property; and

WHEREAS, Section 6. of the initiative reads as follows:

Section 6. Exemptions for Certain Projects. This measure shall apply to all proposed development or redevelopment of Mission Beach Park except a development or redevelopment proposal which has obtained a "vested right" as of the effective date of this measure. For purposes of this measure, a "vested right" shall have been obtained only if each of the following criteria is met:

(a) The project has received its final discretionary approval; and

(b) Substantial expenditures have been incurred in good faith reliance on the final discretionary approval; and

(c) Substantial construction has been performed on the property in good faith reliance on the final discretionary approval.

The "substantiality" of the expenditures incurred and of construction performed and the question of whether or not such expenditures and construction were in "good faith" are questions of fact to be determined on a case by case basis by the City Council following application by the landowner or developer and upon notice to the interested public, and following public hearing.

and

WHEREAS, Belmont Park Associates requested that the City Council determine that Belmont Park Associates had obtained a "vested right" as of the effective date of the initiative; and

WHEREAS, written evidence, including the administrative record summarizing the history of the project was submitted to the City Council and lodged with the City Clerk prior to March 21, 1988; and

WHEREAS, hearings were held on March 21, 1988, and April 18, 1988, on the subject of whether or not such "vested right" had in fact been obtained; and

WHEREAS, testimony was given to the Council on said dates with regard to those activities which Belmont Park Associates performed prior to November 3, 1987, which it asserts met the criteria contained in Section 6. of the initiative; and

WHEREAS, said testimony indicated that the Belmont Park project had, in fact, received its final discretionary approval; that substantial expenditures had been incurred in good faith reliance on the final discretionary approval; and that substantial construction had been performed on the property in good faith reliance on the final discretionary approval; NOW, THEREFORE,

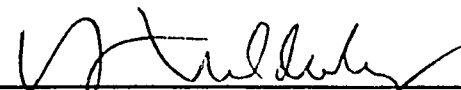
BE IT RESOLVED, by the Council of The City of San Diego, that the City Council hereby determines that the Belmont Park Associates project at Mission Beach Park, as described above, had obtained a "vested right" under the Save Mission Beach Park (Belmont Park) Initiative, also known as Proposition G, as of November 3, 1987, the effective date of said initiative, based on all of the testimony presented and based on the following Findings of Fact:

1. Belmont Park Associates received its final discretionary approval in connection with the project when it received demolition and building permits on March 5, 1987.

2. Substantial expenditures were incurred by Belmont Park Associates in good faith reliance upon the final discretionary approval in that as of the effective date of Proposition G, Belmont Park Associates had expended in excess of \$5 million in connection with the project.

3. Belmont Park Associates performed substantial construction on the project in good faith reliance on its final discretionary approval in that on the effective date of Proposition G the project was about 40% complete including construction of nine buildings, restoration of the plunge, underground utilities and on and off site public improvements.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug
Deputy City Attorney

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Or.Dept:Clerk
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Passed and adopted by the Council of The City of San Diego on APR 18 1988,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR,
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.

By Jana M. Martin, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-270781 Adopted APR 18 1988

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SAN DIEGO, CALIF. *cr*