

(R-94-1817)

RESOLUTION NUMBER R- 284093

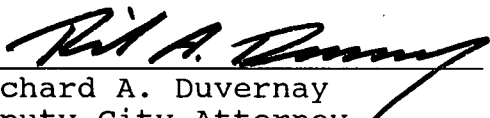
ADOPTED ON JUN 20 1994

A RESOLUTION ESTABLISHING COUNCIL POLICY
NO. 100-11 REGARDING REFUND AND RELIEF POLICY
WHEN PERMITS OR APPROVALS ARE ISSUED IN
ERROR.

BE IT RESOLVED, by the Council of The City of San Diego,
that Council Policy No. 100-11 regarding "Refund and Relief
Policy When Permits or Approvals are Issued in Error" be and is
hereby established as set forth in the Council Policy filed in
the Office of the City Clerk as Document No. RR- 284093.

BE IT FURTHER RESOLVED, that the City Clerk is hereby
instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

RAD:lc
05/17/94
Or.Dept:Mgr.
R-94-1817
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COUNCIL POLICY

SUBJECT	REFUND AND RELIEF POLICY WHEN PERMITS OR APPROVALS ARE ISSUED IN ERROR	POLICY NUMBER	100-11
		EFFECTIVE DATE	07/01/94

BACKGROUND

The City's development process issues approvals for a wide range of activities, from the simple single trade permits (such as electrical or sign permits) to complex planning reviews or zoning use certificates. On occasion, a permit is issued in error and is rescinded which may result in financial harm to the applicant. This policy is aimed at providing financial or other relief actions.

PURPOSE

This policy identifies the circumstances for an applicant to receive financial or other relief in the event an approval is issued in error and revoked or rescinded. Financial relief may not exceed the fees paid for the service in order to protect taxpayers or rate payers by precluding an inappropriate gift of public funds.

POLICY

1. An applicant may be eligible for a refund up to the total fee paid for a service when, due to the City's error, the approval given or permit issued is rescinded. These types of approvals include, but are not limited to, Zoning Use Certificates, Building Permits, and Planning Approvals.
2. A refund is owed when the applicant can demonstrate approval was rescinded due solely to the City's error and no misinformation was supplied by the applicant which resulted in the service paid for not being rendered.
3. An approval done in error does not create a liability for the City to pay for other required approvals. Nothing in this policy shall create a liability for the City of any kind, including but not limited to construction costs or delays. The City Manager shall be responsible for proactively assisting applicants, through early assistance and other coordinating efforts, to better understand the full scope of their projects to mitigate and eliminate potential errors.
4. In lieu of, or in addition to, financial relief, the following actions may also be available, if appropriate, at the discretion of the City Manager:
 - a. A decision not to pursue the violation, or not to rescind the permit or approval.

DOCUMENT NO. RR-284093FILED JUN 20 1994

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SUBJECT

REFUND AND RELIEF POLICY WHEN PERMITS OR APPROVALS ARE ISSUED IN ERROR

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- b. The allowance of special considerations, such as extension of a permit or application, expedite of the permit, and special assistance in the remainder of the process required to achieve compliance.
- c. The utilization of discretion or interpretation when allowed by the ordinances in order to resolve the problem.

PROCEDURE

1. Should the occasion arise for an approval or permit to be rescinded, the applicant will be notified by City staff of their eligibility for relief under the "Refund and Relief" Council Policy.
2. The applicant we be responsible for submitting a written statement to the department responsible for the decision to rescind the approval which includes:
 - a. Name and address of applicant
 - b. Details of approval or permit, including fees paid to the City of San Diego
 - c. Reason given by the City for revocation of approval
 - d. Other information to support the request for relief
3. The department director will be responsible for evaluating the request, including consultation with the City Attorney, and determining whether the applicant is eligible for relief from the City's decision. Should the finding of the department be in favor of the applicant, the director shall initiate a refund or other relief, taking into account both the applicant and the public interest in the final decision.
4. The responding department will document and maintain for the public record all requests and findings for relief under this policy.

HISTORY

R-284093