

MEMORANDUM OF LAW

DATE: August 28, 1985

TO: George Loveland, Director, Park and
Recreation Department

FROM: City Attorney

SUBJECT: Balboa Park - Child Care Facility - Exclusive
Use by City Employees

In connection with the consideration of future uses of that portion of Balboa Park to be returned to park use following vacation by the Navy of a portion of its hospital property, an issue was raised as to the potential for establishing a child care facility in Balboa Park, which facility would be utilized by children of City employees. You have requested our comments on the above concept.

By memorandum dated July 23, 1979, copy attached, this office concluded that as a general rule a child care facility is not a proper use of dedicated park land. Also, it is not legal to set

aside a portion of a dedicated public park exclusively for the use of City employees (except limited administrative and storage space) even when a bona fide park use is involved.

In our view, the only situation in which a child care facility could be allowed in a dedicated public park would involve a situation where the facility would be open to the public on a nondiscriminatory basis and where the facility would be utilized for park and recreation purposes by the children.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Deputy City Attorney

HOV:ps:263(x043.2)

Attachment

cc Councilwoman McColl

ML-85-49