

MEMORANDUM OF LAW

DATE: January 28, 1986
TO: Diana Drake, Montgomery Field
FROM: City Attorney
SUBJECT: Security Deposits - Commercial Leases; and
Abandoned Property - Procedure for Disposal

In connection with your drafting and administration of leases for Montgomery Field tenants, you have asked for our comments as to (1) the maximum security deposit that can be required on airport industrial, commercial and aviation leases; and (2) the correct procedure for disposal of abandoned personal property left behind at the expiration or termination of a commercial lease.

In answer to the first question, California Civil Code, Section 1950.5 specifies that with regard to security for a rental agreement for residential property, a landlord may not require an amount in excess of two months' rent in the case of unfurnished residential property, and three months' rent in the case of furnished residential property, in addition to the first month's rent paid in advance.

Section 1950.7 provides for rental deposits for other than residential property. I have attached a copy of Section 1950.7 for your review. You will note that there is no limitation on the amount of rental deposit which may be required in connection with the renting of nonresidential property. However, you will also note that it is important to specify the purposes for which the deposit may be utilized. The rental agreement should indicate that the deposit may be used to: (1) remedy tenant defaults in the payment of rent; (2) repair damages to the premises caused by the tenant; and (3) clean the premises upon termination of the tenancy.

In addition you may wish to include a provision that the deposit may also be used: (1) to make any repairs, alterations or improvements that are required by the tenant by law or pursuant to the lease terms; (2) to pay for any required

insurance if tenant fails to pay for same; (3) to pay any possessory interest taxes if not paid by tenant; and (4) to cause any mechanics liens to be released if the tenant fails to do so.

With regard to your second question, attached is a copy of California Civil Code, Section 1980 et seq. which provides for the disposition of private property left on the lease premises at

the end of a lease. You will note that the general procedure is as follows:

- (1) The landlord must give written notice to a former tenant and any other person that the landlord reasonably believes to be the owner of the property.
- (2) The notice must be personally delivered or sent by first class mail to the last known address of the presumed owner or to an address where such person may reasonably be expected to receive the notice.
- (3) The notice must describe the property in a manner reasonably adequate to permit the owner to identify it.
- (4) The notice should advise the owner that reasonable costs of storage will be charged, the location of the property must be included and the date by which a claim for the property must be made.
- (5) If the personal property is not claimed it may be sold at a noticed public auction pursuant to Section 1988.
- (6) After the costs of storage, advertising and sale have been deducted the balance of any proceeds from the sale, unless claimed by the former tenant or any other owner, must be paid to the County but may be reclaimed by the City after one year.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug
Deputy City Attorney

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Attachments

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