

MEMORANDUM OF LAW

DATE: August 11, 1986

TO: Mayor Maureen O'Connor
FROM: City Attorney
SUBJECT: Gaslamp projects; Potential Conflict of Interest

This is in response to your question regarding your vote on projects in Gaslamp in light of the fact that your parents own property in the Gaslamp Quarter area. Our analysis of the Political Reform Act herein "Act" reveals that you are not legally constrained from voting on those matters.

We assume you have no present interest, direct or indirect, in the property owned by your parents. Under those circumstances, you do not have a financial interest in any decision associated with your vote. If this is not the case with respect to your present interest, our views could be different.

The sections of the Act applicable to this analysis are California Gov't Code Secs. 87100, 87103 and 82029, which read as follows:

87100. Public Officials; State and Local. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

87103. Financial Interest. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family emphasis added or on

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(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent

child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater. Emphasis added.

82029. Immediate Family. "Immediate family" means the spouse and dependent children.

The sections set forth above and the operative provisions highlighted are clear. You have no financial interest in the Gaslamp property owned by your parents. Furthermore, your parents contrary to the popular notion of kinship are not considered by the Act to be "immediate family." As a result and viewed in its entirety, the Act does not constrain you from participating in governmental decisions as they relate to Gaslamp.

JOHN W. WITT, City Attorney

By

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