

MEMORANDUM OF LAW

DATE: February 18, 1987

TO: Councilman William Jones
FROM: City Attorney
SUBJECT: Acquisition of Real Property Within
Redevelopment Area Boundaries

BACKGROUND

In March 1986 you sent us a memorandum indicating your intention to acquire a parcel of real property within the boundaries of a redevelopment area and asking our views concerning the propriety of your proposed vote upon a certain redevelopment plan and the State Route 252 controversy which were to be subsequently considered by the City Council. A copy of your memorandum request is attached as Enclosure (1) and our records reflect that although, it is dated March 25, 1986, it was hand delivered to this office at 11:40 a.m. on March 31, 1986.

On April 1, 1986 we replied to you by a memorandum from Chief Deputy Jack Katz. A copy of that memorandum is attached as Enclosure (2). As you know, our response reflected generally that we did not see any conflict or potential conflict with respect to your proposed acquisition.

Subsequently, it appears that you did not purchase the property to which your March 25, 1987 memorandum alluded, but you did eventually acquire title to real property at 3055 "L" Street which is within the Dells and Imperial Redevelopment Project Area which was formed in July 1985. You have indicated to us that you are currently in the process of divesting your interest in that property. You have asked us to again advise you with respect to the propriety of these actions.

ANALYSIS

When we replied to you with respect to these matters on April 1, 1986, we inadvertently did not call to your attention the provisions of Health & Safety Code section 33130 which is a

part of the California Community Redevelopment Law of the State of California, that section provides in pertinent part:

- . 33130. Conflicts of interest; acquiring interest to participate as owner or to reenter business; certain rental agreements or property leases not property interests under this section.

(a) No agency or community officer or

employee who in the course of his or her duties is required to participate in the formulation of, or to approve plans or policies for, the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in property included within a project area, that officer or employee shall immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to make the disclosure required by this subdivision constitutes misconduct in office.

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Although this section has not been construed by any court, we think it is clear that it applies to members of the San Diego City Council in their capacity as members of the Redevelopment Agency of The City of San Diego. On this basis then, it is our advice to you that you proceed to take steps to divest your interest in the "L" Street property as soon as practicable and that until you do you do not participate in any Agency actions which might be brought forward with respect to the Dells and Imperial Redevelopment Project Area.

With respect to the disclosure provisions, we note that your April 1, 1986 Statement of Economic Interests on file with the City Clerk (a pertinent portion of which is attached as Enclosure (3)) reports your proposed interest in the "L" Street property. We suggest that you forward a copy of that particular filing to the City Clerk and the Rules Committee Consultant and ask that

the resolution attached as Enclosure (4) be duly presented for inclusion in the minutes of the City Council and the Redevelopment Agency.

JOHN W. WITT, City Attorney

By

C. M. Fitzpatrick

Assistant City Attorney

CMF:js:011(x043.2)

Enclosures

ML-87-15