

MEMORANDUM OF LAW

DATE: April 17, 1987

TO: Hal Rosenberg, Engineering and Development  
Department

FROM: City Attorney

SUBJECT: Parking Prohibitions in Condominium Projects

In your memo of April 6, 1987 you asked if California Vehicle Code section 22651(q) would apply to streets within a condominium development.

A citizen has requested that parking be prohibited on Caminito Cedros in accordance with section 22651(q) which would prohibit parking of vehicles for periods in excess of twenty-four (24) hours when the area has been properly posted. Section 22651(q) was added in 1985 and provides that:

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

The critical term in this section is the word highway. A highway is "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street." California Vehicle Code section 360 (emphasis added).

According to your department, public funds are not spent for the maintenance of Caminito Cedros. To meet the criteria of section 22651(q) the streets within the condominium would have to

be publicly open and maintained. At that time and if the Council so desired, the City could adopt a resolution imposing parking restrictions under the authority of the San Diego Municipal Code or posting in accordance with California Vehicle Code section 22658.2. Without dedication and public maintenance, the parking problems on the private streets of a condominium project are a matter to be addressed by the condominium's management.

JOHN W. WITT, City Attorney

By  
John K. Riess  
Deputy City Attorney

JKR:mrh:641(x043.2)

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