

MEMORANDUM OF LAW

DATE: July 9, 1987

TO: Jack McGrory, Deputy City Manager
FROM: City Attorney
SUBJECT: Super Bowl XXII - San Diego Jack Murphy Stadium
Parking Lot

In response to your June 18, 1987 memorandum regarding the above-captioned matter, please see attached memorandum to me from Legal Intern John D. Williams which we adopt as our response to you.

JOHN W. WITT, City Attorney

By

C. M. Fitzpatrick
Assistant City Attorney

CMF:js:271.25(x043.2)

Attachment

ML-87-79

Office of
The City Attorney
City of San Diego
MEMORANDUM
236-6220

870708

DATE: July 8, 1987

C. M. Fitzpatrick

Assistant City Attorney

July 8, 1987

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TO: C. M. Fitzpatrick, Assistant City Attorney
FROM: John D. Williams, Legal Intern
SUBJECT: Super Bowl XXII - San Diego Jack Murphy Stadium
Parking Lot

You asked me to prepare a brief argument supporting the limitation of access to the San Diego Jack Murphy Stadium Parking Lot to ticket holders and employees during Super Bowl XXII. You also asked me to draft proposed changes to the San Diego Municipal Code regarding this matter.

I

It is clear that the interest in protecting the safety and convenience of persons using a public forum is a valid governmental objective. *Grayned v. City of Rockford*, 408 U.S. 104, 115 (1972); *Heffran v. International Society for Krishna*

Consciousness, Inc., 452 U.S. 640, 650 (1981).

Here, the City wishes to pass an ordinance limiting access to the Stadium parking lot during Super Bowl XXII, to employees and ticket holders to the game or Hospitality Village. The City possesses valid reasons for limiting access, they are:

- (1) To provide for public safety.
- (2) To provide for the safety of high profile political personages, among whom may be the President of the United States.
- (3) Crowd control.
- (4) To prevent undue interferences with the right of ticket holders to use the Stadium facilities. Cf. *Amalgamated Food Employees Union Local 590 v. Logan Valley Plaza*, 391 U.S. 308, 320-321 (1968).

It is anticipated that more than seventy thousand (70,000) people, not including employees working the event, will attend the Super Bowl game and the activities to be conducted in Hospitality Village, located in the Stadium parking lot. This will require moving great numbers of people into and out of the parking lot; control of the crowd flow from the parking lot to the Stadium and Hospitality Village, and the concomitant problems in providing for the safety of these persons. An additional

C. M. Fitzpatrick

Assistant City Attorney

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concern is the ability to ensure the safety and security of high visibility political attendees, among whom may be the President of the United States.

The problems associated with an event involving such great numbers of people were illuminated during Super Bowl XXI which was held in the Rose Bowl. There, a crowd of about five thousand (5,000) gathered at the gate to the Rose Bowl, causing security and crowd control problems.

II

Consistent with our memorandum of December 29, 1983, we believe the City Council could validly adopt such an ordinance so long as it is clear on its face that it is applicable to all persons and is enforced in that fashion. *Connecticut State Federation of Teachers v. Board of Education Members*, 538 F.2d 471 (2nd Circ. 1976).

So long as the ordinance is not selective as to content and not susceptible to abuses of discriminatory application, it would probably withstand constitutional scrutiny. *Cox v. Louisiana*, 379 U.S. 536, 554-556 (1965); *Grayned v. City of Rockford*, 408 U.S. 104 (1972).

To this end, it is suggested that San Diego Municipal Code, sections 59.0102 and 59.0103 be amended as follows:

59.0102(e) - "Overflow Capacity Event" shall mean any event in which attendance is anticipated to be in excess of sixty-five thousand (65,000) people.

59.0103(e) - No person shall bring or attempt to bring a vehicle into San Diego Jack Murphy Stadium Parking Facility without paying the prescribed charge required for admission. On the day of, during and for eight (8) hours after any event designated as an "Overflow Capacity Event," no person shall enter or attempt to enter San Diego Jack Murphy Stadium Parking Facility without presenting a valid ticket or pass to that event, or a pass indicating that the person is an on-duty employee working the event; provided, however, that notices of such prohibition shall be duly posted at least twenty-four (24) hours prior to the event.

John D. Williams, Legal Intern

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