

MEMORANDUM OF LAW

DATE: January 12, 1990

TO: The Honorable Mayor Maureen O'Connor
FROM: City Attorney
SUBJECT: Potential Conflict of Interest/Council Docket
Item 100, January 16, 1990, Regarding Purchase
of Ford Auto and Truck Parts

This is in response to your memorandum of January 10, 1990, to John Witt, City Attorney, and John Lockwood, City Manager. You want to know whether you have a conflict of interest that would disqualify you from voting on Item 100 on City Council docket of January 16, 1990. Your question arises because of a lease between the City of San Diego and Ford Motor Company for use of a Lincoln Continental car by the Mayor and other City officials.

In developing background facts to respond to your memorandum, I have determined that the lease which you describe in your memorandum is, in fact, a lease between the City as a whole and Ford Motor Company, not a lease between the Mayor's office and the car company as you stated. This information is contained in the lease itself. Rules Committee Consultant Rudy Cervantes confirmed, as did Assistant City Manager Jack McGrory, that the car is not for the exclusive use of the Mayor, but rather for use by the Mayor and other City officials.

This lease has been the subject of two (2) City Attorney opinions in the past three (3) years (one is dated June 21, 1989; the other is dated February 20, 1987. Copies of both are attached). Under identical facts as exist here, the June 1989 opinion concluded that the car was not a gift to the Mayor under either city or state laws. The opinion did not, however, specifically discuss the disqualification provisions of the state law which are discussed below.

The Mayor should disqualify herself only if she falls within the prohibitions of Government Code section 87100, which states:

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.
Government Code section 87100.

One type of financial interest that may disqualify a public official from voting are gifts as defined in Government Code section 87103. Gifts of over \$250 to a public official are potentially disqualifying financial interests. Government Code section 87103(e). In this instance, however, the car is not a gift to the Mayor for the reasons articulated in the June 1989 memorandum. Therefore, the Mayor is not disqualified from voting on Item 100 on the January 16, 1990 docket.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire
Deputy City Attorney

CCM:jrl:048(x043.2)

Attachments

cc Jack McGrory

Rudy Cervantes

ML-90-6