

MEMORANDUM OF LAW

DATE: April 7, 1992

TO: Hedy R. Griffiths, Flexible Benefits Manager, Risk
Management Department

FROM: City Attorney

SUBJECT: Insurance Beneficiaries

The City currently has no restrictions on whom an employee may list as his or her primary beneficiary on his or her life insurance policy. You have asked if this policy is appropriate and legal.

Allowing an employee to designate anyone he or she chooses is an acceptable policy for unmarried employees. However, if an employee is married different rules apply. As a general rule, a policy of insurance and the proceeds of the policy are community property if the premiums have been paid out of community funds. *Patillo v. Norris*, 65 Cal. App. 3d 209 (1976). As community property, a spouse may designate a third party beneficiary for his or her half of the proceeds of the policy. That half represents his or her share of the community property. An employee may not make a gift of a spouse's share of the proceeds by designating someone other than the spouse as beneficiary except by express written consent.

All insurance policies obtained through either flexible or management benefits are community property, because wages are considered community property. Therefore, all City policies must designate the spouse as beneficiary of at least one-half of the proceeds of the policy. A third party may be designated as beneficiary of the other one-half of the proceeds.

If I can be of further assistance, please feel free to contact me.

Attorney
Marshall
Attorney
SAM:jrl:351(x043.2)
ML-92-30

JOHN W. WITT, City
By
Sharon A.
Deputy City