

MEMORANDUM OF LAW

DATE: August 13, 1992

TO: Councilmember Abbe Wolfsheimer

FROM: City Attorney

SUBJECT: Legality of Selling City-owned Real Property for
Less Than Full Fair Market Value in Consideration
for Development and Employment Commitments

The City Council recently considered amendments to Council Policy 900-3. That policy relates to the sale or lease of the City's industrial lands. There was some discussion at the time about whether the City should sell its property under certain circumstances for less than full fair market value in exchange for development and employment commitments from the purchaser. You indicated that you thought there may be a statute in California that precludes the sale of City property for less than full fair market value. You asked that this office review the issue and report back to you.

I asked a legal intern to research the present California statutes and prepare a memorandum which is attached. There is at present no statutory requirement that the City sell its real property for full fair market value in cash. The City can review other issues such as development and employment commitments in determining the price to be charged for land. The legal justification is that construction commitments and employment commitments provide benefits to the City which constitute valid consideration.

If you wish to discuss this matter further, please contact me.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Deputy City Attorney

HOV:ps:710.5(x043.2)

Attachment

cc Mayor and City Council

ML-92-69

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