

MEMORANDUM OF LAW

DATE: March 26, 1993

TO: Judy Folsom, Associate Administrative Analyst, via
Larry B. Grissom, Retirement Administrator

FROM: City Attorney

SUBJECT: Supplemental Benefit Eligibility of Marie B. Krause

In a memorandum dated May 7, 1992, you asked whether the above-referenced widow of a "Special Class Safety Member" was eligible to receive the supplemental benefit ("13th Check") described in San Diego Municipal Code ("SDMC") section 24.0404. You initially indicated that your research of Mr. Krause's file showed that he retired as a fixed pension Special Class Safety Member. We responded that if Mr. Krause had retired as a fixed pension Special Safety Class Member then his widow would have been eligible for a 13th Check from 1981 forward. Our analysis was set forth in the attached Memorandum of Law dated July 6, 1992.

In a memorandum dated February 25, 1993, you now indicate that further research shows that Mr. Krause did not retire as a fixed pension Special Class Safety Member. Instead, he was retired as a fluctuating pension Special Class Safety Member. As such, you have correctly determined that his widow, Marie B. Krause, is not eligible to receive the Supplemental Benefit described in SDMC section 24.0404. Any conclusion to the contrary, as expressed in our July 6, 1992 Memorandum of Law, is hereby withdrawn.

Thank you for bringing this matter to our attention.

JOHN W. WITT, City Attorney

By

Loraine L. Etherington

Deputy City Attorney

LLE:mrh:352(x043.2)

Attachment

ML-93-40

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