

MEMORANDUM OF LAW

DATE: October 18, 1995

TO: Jack McGrory, City Manager

FROM: City Attorney

SUBJECT: Proposition 62

By memorandum dated October 9, 1995, you requested our opinion on several matters concerning Proposition 62. Specifically, you asked the following questions:

1. What implications, if any, does Proposition 62 have for any existing taxes, assessments or other charges?
2. What new requirements, if any, does Proposition 62 impose with regard to Council approval and adoption of future revenue proposals?

This office previously opined regarding the effect of Proposition 62 on the City of San Diego, a charter city. That opinion, set forth in a January 30, 1987, Report to the former Committee on Public Services and Safety, was that Proposition 62 was not applicable to charter cities. A copy of that Report is enclosed as Attachment 1. The relevant portion of the Report is on page 2.

Nothing has occurred since the issuance of that Report to change our opinion on this matter and, in fact, the recent decision by the California Supreme Court in the case *Santa Clara County Local Transportation Authority v. Guardino*, 95 Daily Journal D.A.R. 13017 (9/28/95), reinforces our opinion that Proposition 62 does not apply to charter cities. Accordingly, we are of the opinion that Proposition 62 has no implications for the City of San Diego with regard to any existing taxes, assessments, or other charges. In addition, Proposition 62 does not impose any requirements with regard to Council approval and adoption of future revenue proposals.

We emphasize that this opinion relates solely to the impact of Proposition 62 on the City of San Diego as a charter city. Proposition 62 does have impacts on other legal entities that are not charter cities, including "districts" and other units of local government. We have assumed for purposes of this Memorandum that your inquiry was directed at Proposition 62's effect on the City only, and have opined accordingly. If you require advice on the Proposition's effect on any other type of governmental entity, we would be glad to so advise you.

JOHN W. WITT, City Attorney
By

Leslie J. Girard
Chief Deputy City Attorney

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Enclosure

cc C. M. Fitzpatrick

ML-95-73