

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: April 1, 2010
TO: The Honorable Mayor and City Council
FROM: City Attorney
SUBJECT: Selling City-owned Real Property to Fund Retiree Health

This Office has been asked if there are any limitations related to the City selling City-owned real property to fund postemployment healthcare benefits.

Yes. San Diego Charter section 77 would prohibit using the proceeds received from the sale of City-owned real property to fund postemployment healthcare benefits unless approved by two-thirds of the City's electorate.

The City provides postemployment healthcare benefits to qualifying general, safety, and legislative members, as provided for in San Diego Municipal Code sections 24.1201 through 24.1204.

San Diego Charter section 77 requires that all proceeds received from the sale of City-owned real property be placed in the City's Capital Outlay Fund. Charter section 77 further strictly limits the use of Capital Outlay funds "exclusively for the acquisition, construction and completion of permanent public improvements," and such funds "shall not be used for any other purpose or transferred from said fund, except with the consent of two-thirds of the qualified electors of said City, voting at a general or special election."

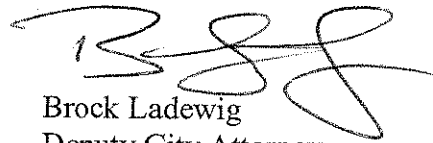
Charter section 221 applies to the sale or exchange of City-owned real property consisting of eighty (80) contiguous acres or more, whether or not in separate parcels. Such a sale requires ratification by the electors of the City, unless the sale is to a governmental agency for bona fide governmental purposes, which sale or exchange was duly authorized by ordinance of the

Council. However, the proceeds received from such as a sale would be restricted for Capital Outlay purposes as required by Charter section 77.

Selling City-owned real property to fund postemployment healthcare benefits is strictly prohibited by San Diego Charter section 77, unless approved by two-thirds of the electorate.

JAN I. GOLDSMITH, City Attorney

By

A handwritten signature in black ink, appearing to be "B. Ladewig", written over a horizontal line.

Brock Ladewig
Deputy City Attorney

BL:mm
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