

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: July 29, 1988

TO: Denis Dunn, Principal Structural Engineer,
Building Inspection Department

FROM: City Attorney

SUBJECT: Agar Building

This is written in response to your memorandum of July 25, 1988, in which you asked if restoration of the chimney and cupola on the Agar Building would be permitted under Proposition "D" (height limit ordinance No. 10960).

Proposition "D" limits the height of buildings in the San Diego coastal zone to thirty (30) feet. Of importance to the question you ask, is the following provision:

Notwithstanding any section to the contrary, there shall be no exception to the provisions of this ordinance.

This provision appears to have been strictly adhered to by the City's Building Inspection Department. Attached are two letters from Building Inspection. The first, dated October 12, 1982, and addressed to Ralph Fox, President, from G. W. Curtis, dealt with the situation in which a building had been significantly damaged in a fire after the passage of Proposition D. Mr. Curtis advised Mr. Fox that regardless of the cause of damage, the thirty (30) foot height limit would apply. (See page 2, point no. 8) The second letter, dated July 25, 1986, addressed to Clyde C. Greco, Jr., from Richard Christopherson, indicated that glass enclosures of already existing balconies would be considered an addition and in accordance with Proposition D, permits would not be issued for additions over thirty feet.

In light of Proposition D's specific language forbidding exceptions to the thirty-foot limit, and past practices of the Building Inspection Department, it appears that restoration of the chimney and cupola on the Agar Building would not be permitted under Proposition D.

If you have any further questions, please do not hesitate to contact me.

JOHN W. WITT, City Attorney

By

Allisyn L. Thomas

Deputy City Attorney

ALT:wk:634
Attachments
MS-88-11