October 16, 1990

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
Abbott, et al. v. City of San Diego, et al.
San Diego Superior Court No. 628781

On September 21, 1990, a complaint for declaratory relief was filed in the Superior Court for the County of San Diego challenging the redistricting plan set forth in Map 23a. The redistricting plan reflected in Map 23a had been agreed upon to resolve the voting rights litigation in Perez v. City of San Diego.

The Abbott lawsuit contends Map 23a violates San Diego City Charter, article II, section 5, which states:

> In any redistricting, the districts shall be comprised of contiguous territory and made as equal in population as shown by the registration records, and as geographically compact as possible, and the districts so formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines (emphasis added).

Specifically, the lawsuit contends the new districts, as shown on Map 23a, are not geographically compact. The lawsuit also contends Map 23a divides the Asian/Pacific Islander Community in San Diego in violation of California Elections Code section 35101. Additionally, the lawsuit contends Map 23a fails to establish districts which are as nearly equal in population as possible in violation of California Elections Code section 35150. Finally, plaintiffs contend that the proposed districts are not bounded by natural boundaries, street lines and/or City boundary lines.

The question to be decided is whether the City should attempt to remove the Abbott case to federal court. We recommend removal be pursued for several reasons.

First, it would consolidate all legal issues in the redistricting process into one judicial forum. Second, it will expedite the judicial proceedings because the state court process will begin anew with its attendant time delays, whereas the federal court has an existing case with which to merge it. Finally, and most important, it will arguably avoid conflicting

judicial decisions in the redistricting matter.

Respectfully submitted,
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