MEMORANDUM OF LAW

DATE: March 2, 1990

TO: George Story, Management Assistant
FROM: City Attorney
SUBJECT: Proposed Reorganization in Escondido

By memorandum to this office you requested a legal opinion as to whether the City of San Diego may agree to detach lands within the Future Urbanizing Area given the restriction imposed by Proposition A which states that ". . . the provisions restricting development in the future urbanizing area shall not be amended except by majority vote of the people voting on the change or amendment at a citywide election thereon." This question was asked in the context of a revised reorganization proposed by the City of Escondido respecting a 1.43-acre pump station site owned by the City of Escondido just south of Via Rancho Parkway (see attached map) in the City of San Diego and within the Proposition A area.

A recent California court of appeals case entitled L.I.F.E. Committee v. City of Lodi, 213 Cal.App.3d 1139 (1989) provides an answer to your question. In that case the City of Lodi enacted an initiative ordinance designated "Measure A" which established a "green belt" surrounding the City of Lodi. The initiative provided, inter alia, that before land in the green belt could be annexed to the City of Lodi a general plan amendment must be made and approved by a majority of people voting in a citywide election. The court of appeals held this ordinance invalid under the California Constitution because it conflicted with state law which governs annexation proceedings (California Government Code section 56000, et seq.).

The City of Lodi argued that the vote required by Measure A did not concern itself with proposed annexations but rather related to land use planning and setting the time when a vote on the general plan could occur. The court disagreed with this argument and concluded that the provision conditioning future annexations on voter approval of amendments to the general plan was constitutionally invalid because it conflicted with the paramount general law of the state respecting annexations.

Unlike the City of Lodi's Measure A, the City of San Diego's Proposition A makes no explicit reference to detachments, annexations or reorganizations. Proposition A does, however, relate to land use planning and establishes a voter approval

requirement on amendments to the development restrictions in the Proposition A area.

There is no limitation expressed in Proposition A which prohibits a reorganization, detachment or annexation proceeding from occurring without voter approval. However, if one were to anticipate an argument that areas of land within the Proposition A area could not be detached or reorganized without a Proposition A voter approval, it is my opinion that we would be in conflict with the holding in Lodi. Therefore, it is our opinion that the City of San Diego could agree to detach lands from the City of San Diego in the Proposition A area without a vote of the people as specified in Proposition A.

JOHN W. WITT, City Attorney
By
Thomas F. Steinke
Deputy City Attorney

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Attachment
ML-90-31