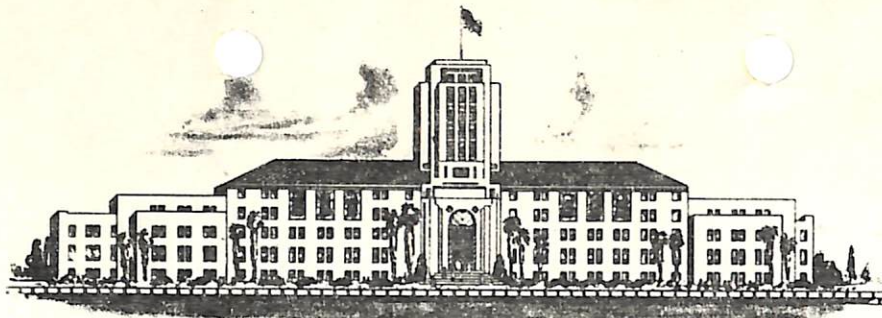




OFFICE OF
CITY ATTORNEY



THE CITY OF SAN DIEGO

SAN DIEGO, CALIFORNIA

J. F. DU PAUL
CITY ATTORNEY
SHELLEY J. HIGGINS
ASST. CITY ATTORNEY

DEPUTIES
DOUGLAS D. DEAPER
ALAN M. FIRESTONE
ROBERT T. SJOGREN
AARON W. REESE
MONA N. ANDREEN
HOYT E. RAY

December 29, 1952

Mr. J. F. DuPaul
City Attorney
The City of San Diego, California

Re: Jurisdiction over Block 31,
New San Diego

Dear Mr. DuPaul:

In response to your request for a memorandum opinion answering Councilman Schneider's question as to the legality of the Harbor Commission's jurisdiction, supervision, management and control over Block 31, New San Diego, in the City of San Diego, California, bounded by Kettner Boulevard, Market, California and "G" Streets, I submit the following.

Prior to 1936 this area was under the jurisdiction of the U. S. Army and then transferred to the U. S. Navy because of the Navy's need for additional land for its storage facilities.

In 1936 the Navy Department communicated with the Harbor Commission in regard to a possible exchange of said Block 31 for municipal tideland Blocks 18 and 19, which were more available to the Naval Supply Depot. The Harbor Commission, in a letter dated December 2, 1936 to the Mayor and City Council, looked with favor upon this exchange, and requested an expression of opinion from the City Council.

The Council also looked with favor on this exchange, and the proposition was placed on the ballot in the next municipal election. May I now quote briefly from City Resolution No. 65876, declaring the result of the regular municipal election held on Tuesday, the 27th day of April, A.D. 1937. Proposition I on the ballot read in part as follows:

"Shall The City of San Diego, through its Council, be empowered and authorized to grant and convey to the United States Government the following described tidelands situated in the City of San Diego, to-wit:"

(Parcel No. 1 (Block 18) and Parcel No. 2 (Block 19) were fully described).

"in exchange for the reconveyance to The City of San Diego by the United States Government of all of Block 31, New San Diego, according to Map thereof No. 456 filed in the Office of the County Recorder of the County of San Diego, California, which said Block 31, if reconveyed as aforesaid, shall be placed under the jurisdiction, supervision, management and control of the Harbor Commission of The City of San Diego.

"The vote was:

For said Proposition, 17,694 votes;

Against said Proposition, 3,910 votes;

and said Proposition has received the vote of a majority of all the voters voting thereon at said election."

The legal effect of said election was to place said Block 31 under the jurisdiction of the Harbor Commission. Since this parcel is not part of the original tidelands property conveyed by the State of California to The City of San Diego in 1911, there are no trust conditions attached as to the use of this parcel for commerce, navigation and fisheries. However, the revenue from Block 31 would be revenue and receipts of the Harbor Department and impressed with the trust provisions of Section 54 (f) of the City Charter, in that such revenue could be used only for the development of the Harbor or for operating expenses of the Harbor Department until such time as the Harbor is fully developed.

Very truly yours,

Robert T. Sjogren
Robert T. Sjogren
Deputy City Attorney

RTS/omm

OK
J. DuPaul