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2 Todd T. Cardiff, Esq. (SBN 221851)  
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7 Tel: 760-942-8505  
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9 Attorneys for Plaintiffs and Petitioners,  
10 TAXPAYERS FOR RESPONSIBLE LAND USE and LA JOLLA SHORES ASSOCIATION

11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 TAXPAYERS FOR RESPONSIBLE LAND USE, et al.,	)	Case No. GIC867378
	)	
14 Plaintiffs and Petitioners,	)	<b>NOTICE OF LODGMENT IN REPLY TO</b>
v.	)	<b>HILLEL OF SAN DIEGO'S OPPOSITION</b>
	)	<b>TO MOTION FOR PRELIMINARY</b>
15 CITY OF SAN DIEGO, et al.,	)	<b>INJUNCTION AND STAY</b>
	)	
16 Defendants and Respondents.	)	ASSIGNED FOR ALL PURPOSES TO:
	)	<i>Hon. Linda B. Quinn</i>
<hr/>		
17 HILLEL OF SAN DIEGO, et al.,	)	Date: November 6, 2006
	)	Time: 1:30 PM
18 Real Parties-in-Interest.	)	Dept: 74
	)	Action filed: June 12, 2006

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

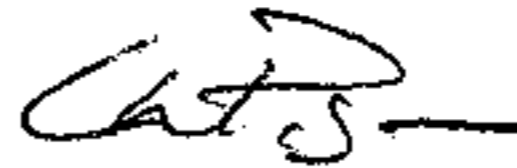
20 PLEASE TAKE NOTICE that Plaintiffs and Petitioners Taxpayers for Responsible Land Use  
21 and La Jolla Shores Association have lodged the following attached exhibits in support of their Motion  
22 for Preliminary Injunction, or Alternatively for A Stay of Administrative Decision Under CCP § 1094.5:  
23

- 24 11. Public Records Act Request to Clerk for the City of San Diego, dated July 6, 2006;
- 25 12. Public Records Act Request to Council President Scott Peters, dated July 6, 2006;
- 26 13. A Complete Summary Appraisal of City Site 653, Prepared for the City of San Diego by  
27 Rasmuson Appraisal Services, dated June 8, 2005;
- 28 14. Roger P. Bush's letter to Gary L. Rasmuson, dated November 8, 2005;

- 1 15. Gary L. Rasmuson's draft appraisal to Ms. Carrie L. Gleeson, dated January 25, 2006;
- 2 16. Roger P. Bush's email to Jim Waring re: Site 653, dated April 6, 2006;
- 3 17. Dene Oliver's email to Jim Waring re: Hillel purchase on La Jolla Village Drive, dated
- 4 April 6, 2006;
- 5 18. Hillel of San Diego's Response to City of San Diego's Request for Proposal, dated June
- 6 5, 2000;
- 7 19. "About us-Management Structure" page from OliverMcMillan website;
- 8 20. James Anthony's email to Dene Oliver, et al. re: Hillel purchase on La Jolla Village
- 9 Drive, dated April 7, 2006;
- 10 21. Betsy Kinsley's email to Dene Oliver, et al. re: Hillel purchase on La Jolla Village Drive,
- 11 dated April 7, 2006;
- 12 22. Jim Waring's email to Dene Oliver re: Hillel purchase on La Jolla Village Drive, dated
- 13 April 11, 2006;
- 14 23. Jim Waring's email to Betsy Kinsley re: Hillel, dated April 18, 2006;
- 15 24. Roger P. Bush's letter to Gary L. Rasmuson, dated April 21, 2006;
- 16 25. A Complete Summary Appraisal of City Site 653, Prepared for the City of San Diego by
- 17 Rasmuson Appraisal Services, dated April 25, 2006;
- 18 26. City of San Diego Council Policy 700-10, Disposition of City-Owned Real Property.
- 19

20 DATED: October 30, 2006

COAST LAW GROUP LLP

21 

22 \_\_\_\_\_  
23 Christian C. Polychron.  
24 Attorneys for Plaintiffs and Petitioners  
25 TAXPAYERS FOR RESPONSIBLE LAND USE  
26 and LA JOLLA SHORES ASSOCIATION  
27  
28

# EXHIBIT "14"



THE CITY OF SAN DIEGO

November 8, 2005

Gary L. Rasmuson, MAI  
14665 Yukon Street  
San Diego, CA 92129

Re: AP: 627380 - Appraisal Services – Proposed Sale of Site 653 – La Scenic Drive & La Jolla Scenic Way La Jolla, California

This letter is to confirm our telephone conversation of October 27, 2005, authorizing you to proceed with the appraisal in connection with the above project.

We understand that you will provide four copies of a Complete, Summary Appraisal Report (USPAP Standard 2-2 (b)) by December 15, 2005. The purpose of the appraisal is to estimate Market Value as defined on Page 210 of the Uniform Standards of Professional Appraisal Practice and Advisory Opinions, 2005 edition. The intended use is to establish a basis for the potential sale or lease of the subject property. A presubmittal conference is requested prior to completion of the final report. The fee for this assignment is \$3,000.

As we discussed, timing in this project is critical. Any effort on your part to complete the assignment ahead of your proposed delivery date would be appreciated.

If we may be of further assistance, please call me at (619) 236-6938.

  
Roger P. Bush, MAI  
Property Agent, Acquisition & Valuation Division

cc: Stephen L. Geitz  
James P. Anthony ✓



**Real Estate Assets**

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199  
Tel (619) 236-6020 Fax (619) 236-6706

**EXHIBIT “15”**

# Rasmuson Appraisal Services

Gary L. Rasmuson, MAI SRA  
Wendy A. Rasmuson, MBA

14665 Yukon Street  
San Diego, California 92129  
Ph. (858) 672-1796 Fax (858) 672-3816

January 25, 2006

File No. 25266

## DRAFT

Ms. Carrie L. Gleeson  
Deputy City Attorney  
City Attorney's Office  
c/o Ms. Carol A. Chiodo  
Deputy Director  
Acquisition and Valuation  
1200 Third Avenue, Suite 1700  
San Diego, California 92101

RE: AP 627380 -- City owned parcel known as Site 653, La Jolla, CA

Dear Ms. Gleeson:

I have completed an updated appraisal setting forth the market value of the subject property. The appraisal report has been prepared to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Ethics and Supplemental Standards of the Appraisal Institute. This appraisal has been prepared as a complete valuation analysis and is presented as a Summary Report.

This appraisal report is intended for use by City Attorney's Office, the engager of the report, to establish a basis for the potential sale or lease of the subject property. Neither this report, nor any of the information contained herein shall be used or relied upon for any purpose or by any person or entity other than engager without the prior written consent of Rasmuson Appraisal Services.

The subject is a 15,349-square foot vacant lot located on La Jolla Scenic Drive North and La Jolla Scenic Way in the community of La Jolla, City of San Diego, California. The parcel is owned by the City of San Diego. Hillel of San Diego is negotiating to purchase or lease the subject property from the city for development with a student center facility. Hillel is also concurrently processing a street vacation for 21,278 square feet of La Jolla Scenic Drive North right-of-way to be incorporated with the adjacent city lot for a total development lot of 33,566 square feet. This street vacation area is included in my valuation of the subject property based on an extraordinary assumption that the vacation application will be approved.

My opinion of the market value of the subject's fee simple interest, as of January 25, 2006 was:

<b>CONCLUDED ESTIMATE OF MARKET VALUE - AS-IS SITE 653</b>	<b>\$800,000</b>
<b>CONCLUDED ESTIMATE OF MARKET VALUE - AS PROPOSED - HILLEL PROJECT</b>	<b>\$940,000</b>
<b>CONCLUDED ESTIMATE OF MARKET VALUE - TWO LOT RESIDENTIAL DEVELOPMENT</b>	<b>\$1,310,000</b>

Please refer to the Limiting Conditions section of this report for the specific assumptions made in this analysis. The value estimates which include consideration of the street vacation area are both based on the Extraordinary Assumption that the street vacation of the adjacent right of way along La Jolla Scenic Drive North will be approved and this area incorporated into the existing fee area of Site 653. If the street vacation is not approved, these values would be void.

Ms. Carrie L. Gleeson  
Deputy City Attorney  
City Attorney's Office

January 25, 2006

It has been a pleasure to be of service to you in this assignment. I look forward to your review of this report, and welcome your further comments or questions.

Sincerely,

RASMUSON APPRAISAL SERVICES

**DRAFT**

Gary L. Rasmuson, MAI, SRA

Certified General Real Estate Appraiser

State of California

OREA Appraiser I.D. No. AG 002571

Expiration Date: 2/4/2008

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## SUMMARY AND CONCLUSIONS

<i>Property</i>	A 15,349-square foot lot located on the north side of La Jolla Scenic Drive North and west of La Jolla Scenic Way in the community of La Jolla, California. The property is also known as City Site No. 653.	
<i>Project Description</i>	Hillel of San Diego is proposing to acquire the subject property and develop a 12,100 square foot student center with a subterranean garage. The project will include requesting the street vacation of adjacent 21,278 square feet from La Jolla Scenic Way North and incorporating a large portion of this area into the development lot area. The total effective site area, after inclusion of the proposed street vacation and deduction of required street dedication area is 33,566 square feet. This area is net of 878 square feet of street vacation area that will be attached to an adjacent parcel not included in this valuation.	
<i>Apparent Ownership</i>	City of San Diego	
<i>Purpose</i>	To develop an opinion of the subject's market value to establish a basis for the potential sale or lease of the subject property.	
<i>Estate Valued</i>	The fee simple interest	
<i>Zoning</i>	SF – Single Family Residential; La Jolla Shores Planned District, City of San Diego	
<i>Site Size</i>	Existing Site 653: 15,349-SF Proposed Site Area – Hillel Project: 33,566 SF gross lot area including street vacation, net of street dedication Estimated Site Area – 2 Lot Development: 30,200 SF	
<i>Effective Date of Appraisal</i>	January 25, 2006	
<i>Indicated Values</i>	Concluded Estimate of Market Value – As-Is Site 653 ...	\$800,000
	Concluded Estimate of Market Value – As Proposed – Hillel of San Diego Project ....	\$940,000
	Concluded Estimate of Market Value – Two Lot Residential Development ....	\$1,310,000
<i>Date of Report</i>	January 25, 2006	
<i>Specific Assumptions</i>	The subject property is valued under the extraordinary assumption that the proposed street vacation of 21,278 square feet from La Jolla Scenic Drive North will be approved as proposed and this area is available for development as part of the adjacent Site 653. As of the date of report, this vacation was proposed but not yet formally approved by the city. If the vacation does not occur, the value conclusion reached in this report would be significantly impacted and no longer applicable.	



The valuation includes street vacation area south of the centerline of La Jolla Scenic Drive North that may have an ownership claim by Lot 67 (APN 344-131-01) who abuts this area of the street vacation. I have been instructed to include this area in my valuation.

I have relied upon an off-site cost estimate provided by Bycor General Contractors who prepared the estimate for Hillel of San Diego in a report dated April 29, 2005. These costs were reviewed at my request by Alex Garcia in the City of San Diego Development Services department. Steve Schmidt at Bycor and Alex Garcia were interviewed regarding the cost to perform the required off-site construction. My valuation is based in part on reliance upon the cost estimate made by Bycor, subject to recommended changes made by Mr. Garcia. I am not an expert in development cost estimating and have relied upon these experts in my analysis at the specific request of my client.

*Appraiser*

Gary L. Rasmuson, MAI SRA

# EXHIBIT "16"

**From:** Roger Bush  
**To:** Jim Waring  
**Date:** 4/6/2006 5:39:26 PM  
**Subject:** Site 653, Hillel

Jim, We have received a draft updated appraisal which has not been forwarded to Hillel representatives for comment as we have not yet received the customary upfront appraisal fee. Jim Anthony informs me that payment is imminent. After receiving comment the report can be finalized and reviewed in a matter of a few days. The preliminary value is \$1,310,000.

You should be aware that the March, 2005, value Hillel agreed to was \$780,000. The primary difference is due to \$400,000+ in site development costs required of the Hillel specific project. DSD now says those requirements would not be typical of a single family development. As such, we have a much higher "as is" value with the update. Please call with any questions. I will be in tomorrow, Friday, out Monday the 10th.  
Roger

Roger P. Bush, MAI  
Property Agent  
Acquisition & Valuation Division  
Real Estate Assets Department  
City of San Diego  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101

Phone: 619-236-6938  
Fax: 619-533-4522  
email: rbush@sandiego.gov

**CC:** Chris Hargett; Steve Geitz

# EXHIBIT "17"

**From:** "Dene Oliver" <doliver@olivermcmillan.com>  
**To:** "Jim Waring" <JWaring@san Diego.gov>  
**Date:** 4/6/2006 9:01:24 PM  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

Thanks Jim. I look forward to getting the price and appraisal if possible so I can help Hillel with this process. Jim A please give me an email when you can on value and the appraisal. Dene

-----Original Message-----

**From:** Jim Waring [mailto:JWaring@san Diego.gov]  
**Sent:** Thu Apr 06 13:48:15 2006  
**To:** Dene Oliver  
**Cc:** Betsy Kinsley; James Anthony  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

Dene;

Jim Anthony, of real estate assets is handling this transaction. He is way ahead of you and me. The deal has been appraised and the appraisal has been shared with Hillel. Hillel is trying to negotiate the price, but Jim and I agree the appraisal is reasonable and we are sticking to that number. Probably more importantly to the Hillel group is we will sell verses lease, which makes it easier for them. At this point, once they accept the price, we will move forward to council with the sale recommendation.

Jim;

When we just spoke you were not positive of the exact appraised value. Please verify the amount and forward the number to Dean. Thanks.

James T Waring, Deputy Chief  
Land Use and Economic Development  
City of San Diego  
202 C Street, 9th Fl  
San Diego, Ca 92101  
jwaring@san Diego.gov

*redacted numbers*

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/5/2006 6:14:04 PM >>>

Jim, following up from our last meeting in the Mayors office and with you and Jerry at lunch today, I wanted to express my thanks for you taking this on for the Mayor to free up some one from the City staff to work quickly on the purchase documents. There is a hearing date on this in front of the council early May so it would be great if we could have something put together before then. I suppose if we don't, that based on our conversation today, that the Mayor can proceed, without further council approval, to complete the sale of the property following the land use approval. Please let me know ASAP who in the Property Department we should contact regarding the purchase documentation. Thanks so much. Dene

**CC:** "Betsy Kinsley" <BKinsley@san Diego.gov>, "James Anthony" <JAnthony@san Diego.gov>

**EXHIBIT "19"**

[Executive Team](#)[Design Awards](#)[History & Philosophy](#)[View Brochure OnLine \(Flash\)](#)[Download Corporate Brochure \(pdf\)](#)[OM Offices/Eagles Hall](#)[View Eagles Hall \(Flash\)](#)[Industry Links](#)

## MANAGEMENT STRUCTURE

The OliverMcMillan executive team guides the day-to-day management and operations.

One of the keys to OliverMcMillan's success is the team approach the firm brings to development. An excellent staff of management executives with degrees and backgrounds in law, business, real estate, architecture, finance, and marketing has been assembled, resulting in an organization that is able to conceptualize, implement, and respond quickly to today's dynamic market. Experienced managers have been placed in the position of overseeing construction, financial, legal, marketing and property management departments. OliverMcMillan aggressively and methodically selects properties, which can be developed in such a way as to be profitable to the firm, the investors, and the surrounding communities. By maintaining internal control of all aspects of the development process, OliverMcMillan is able to closely monitor costs, respond quickly to issues that arise, and add more quality and refinement to each of its projects.

### KEY EXECUTIVE BIOGRAPHIES

#### MORGAN DENE OLIVER

Chief Executive Officer

Morgan Dene Oliver is the Chief Executive Officer of OLIVERMcMILLAN. Dene was born in San Diego, in July of 1951. He is a graduate of the University of California at Berkeley where he received a Bachelor of Science Degree in Real Estate and Urban Land Economics from the School of Business Administration. After completing an undergraduate degree, he attended and graduated from the University of Southern California School of Law, and attended the University of Southern California Graduate School of Business Administration. During undergraduate and graduate school in his 20's, Dene founded and managed Silk Screen Shirts, Inc., a



major garment printing firm which he sold in 1984. Following law school, Dene was an attorney working in the area of real estate and corporate law at the San Diego law firm of Luce, Forward, Hamilton & Scripps. After several years he left the firm and founded Oliver, Sullivan, Cummins & Wertz, a law firm practicing in the areas of real estate, business law and related civil litigation. In 1978, Dene Oliver and Jim McMillan, his lifelong friend, founded OliverMcMillan. OliverMcMillan is one of the largest commercial development firms headquartered in San Diego and has been continually recognized for producing major architectural award winning projects throughout the Southwest.

Dene has been active in both professional and community organizations. Dene is a former member of the Board of Directors of the Sharp Hospital Foundation, the San Diego Symphony and the Museum of Photographic Arts. He is an avid sailor and member of the San Diego Yacht Club. He was appointed by Mayor Maureen O'Connor to serve on the San Diego Homeless Task Force and is a former member of the California State Board of Architectural Examiners, appointed by the Governor. Dene is a member of the Urban Land Institute and is a frequent speaker at various industry-related organizations. He was also appointed by the San Diego City Council to the Board of Directors of the San Diego Convention Center where he served as President and Chairman of the Board of the San Diego Convention Center Corporation. Dene was the founding Chairman of the Expansion Committee of the San Diego Convention Center which is in the process of a \$200 million expansion. Dene is currently working on behalf of the Mayor on the design of the Convention Center expansion. Dene was a member of the 1995 America's Cup Board of Directors and is currently a board member of the Mayor of San Diego's committee to develop a new \$100 million central library in Downtown San Diego where he was the Chairman of the sub-committee to select the architect for the project. Currently, Dene, his wife Elizabeth and their daughters, Isabelle and Emma, reside in the Point Loma area of San Diego.

#### **JAMES L. MCMILLAN**

President

James L. McMillan is the President of OLIVERMcMILLAN. Born in San Diego, in 1950, Jim is a graduate of the University of California at Berkeley where he





received a Bachelor of Science Degree in Real Estate and Urban Land Economics from the School of Business Administration in June 1973. He also holds a Master of Business Administration Degree in Finance from the University of Southern California in June 1976.

From 1973 to the present, he has been responsible for the McMillan Real Estate holdings which include properties and partnerships located in California, North Carolina and Florida. In 1978, Jim McMillan and Morgan Dene Oliver, his lifelong friend, founded OliverMcMillan. OliverMcMillan is one of the largest commercial development firms headquartered in San Diego and has been continually recognized for producing major architectural award winning projects throughout the Southwest. During the past twenty years, OliverMcMillan projects have exceeded \$1 billion in project value.

Jim is a trustee of La Jolla Country Day School where he has also served as Chair of the Finance Committee and the current Chair of the Committee on Trustees. He has additionally served as Board Member of the Child Abuse Prevention Foundation, member of the Rancho Bernardo Architectural Committee and Board Member of Investcal Realty Corporation. Currently he is a Director of the Schoenith Foundation which works to benefit educational and medical research. Jim is a member of the Urban Land Institute and the International Council of Shopping Centers.

#### **RICHARD PAUL BUSS, AIA**

Chief Development Officer

Born in Herington, Kansas in 1946, Richard Paul Buss is a California registered architect with a Masters Degree in Business Administration. As Chief Development Officer of OliverMcMillan, Paul heads the Project Development Division and is responsible for the planning and executing of all projects built by OliverMcMillan.



Paul is a past President of the San Diego Chapter of the American Institute of Architects. He has served as President of the San Diego Architectural Foundation, as well as

Chairman for the Long Range Planning Committee for the California Council of the American Institute for Architects. In addition, he was a member of the City of San Diego Building Department's Board of Appeals and Advisors, and served as a past Chairman of the Copley YMCA Board of Managers. Paul's most recent and visible civic involvement has been as a member of the Centre City Planning Committee charged with replanning the Downtown area of San Diego. In 1989, Paul was awarded the California Council American Institute of Architects Public Service Award.

**WILLIAM P. PERSKY**

Chief Financial Officer

William P. Persky is the Chief Financial Officer of OLIVERMcMILLAN. Born in San Diego, California in 1955, Bill is a graduate of the University of California at San Diego. He also holds a Master of Business Administration in Finance and Accounting from the University of California at Los Angeles where he graduated Magna Cum Laude. Bill joined OliverMcMillan in 1984 after working at



Coopers and Lybrand, an international public account firm, for 3-1/2 years in auditing, tax and computer consulting. Bill is a graduate of, and active Alumnus of, LEAD San Diego and is a member of the Construction Financial Management Association.

**JIM REYNOLDS**

Managing Director

Jim earned his Bachelor of Science degree in Business Administration and Marketing at San Diego State University. After graduation, Jim went to work for University Financial focusing on real estate development and finance. After 10 years with University Financial, Jim founded his own company, Holmes-Reynolds Development Company. Over 14 years, Holmes-Reynolds Development Company developed in excess of 1,000,000 square feet of retail,



commercial and Senior-Living projects.

In 1989, Jim joined Dennis Conner in the 1992 America's Cup as his Chief Operating Officer. Together, they were responsible for raising in excess of \$60 million in corporate sponsorship for Dennis Conner and his Stars & Stripes team in the 1992, 1995 and 2000 America's Cup competitions.

In 1992, Jim and his family relocated to New York to be more effective in working with corporate sponsors. While in New York, Jim began consulting for Watermark Inc., a company focused on waterfront and marina development. There Jim worked closely with the City of New York on major projects such as a new aquarium, ice-skating rink, theme park proposals. Jim also consulted on major real estate projects associated with the World Financial Center which included a marina and related commercial, retail and residential development.

After returning to San Diego, Jim joined OliverMcMillan in 2002, bringing his more than 30 years of real estate experience. Capitalizing on his real estate experience and the financial relationships which both he and OliverMcMillan have developed over the years, it was Jim's inspiration to create OliverMcMillan Capital. In addition to his duties overseeing the pre-development and construction of all downtown San Diego projects as Senior Vice President of OliverMcMillan, Jim is Managing Director of OliverMcMillan Capital and will be directly involved in its day to day operation. Jim is a 20-year friend and industry associate of Dene Oliver and Jim McMillan.

# EXHIBIT "20"

**From:** James Anthony  
**To:** Oliver, Dene; Singer, Neal; Singer, Neal  
**Date:** 4/7/2006 10:30:27 AM  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

Dene,

#### VALUATION

Roger Bush, MAI, our review appraiser, informs me that we have received a draft updated appraisal. It will be forwarded to Hillel representatives for comment when we receive the customary up-front appraisal fee. Neal Singer informs me that the \$3,000 payment will be delivered shortly. After receiving comment the report can be finalized and reviewed in a matter of a few days. The preliminary value is \$1,310,000.

You should be aware that the March, 2005, value Hillel agreed to was \$780,000. The primary difference is due to \$400,000+ in site development costs required of the Hillel specific project. The Development Services Department now says those requirements would not be typical of a single family development. As such, we have a much higher "as is" value with the update.

#### PURCHASE AGREEMENT

I have attached a copy of the "Real Estate Purchase and Sales Agreement" that we were working on in September. We have incorporated all the requested changes by Bob Lipidus, except for the closing contingency language in section 6. This document has been back and forth between attorneys a couple time already. Since we have new staff in the City Attorneys Office, we should run it by them once more. Hillel should take another look at it and comment before I send the document down for hopefully a last review.

Note, since several individuals requested similar information, this is a group working email of sorts. Call me if you or any of the copied parties to this message have questions.

Thanks,

James P. Anthony, RPA, SRWA, CM  
City of San Diego  
Real Estate Assets Department  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101

619-533-6509  
619-236-6706 (fax)

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/6/2006 8:55 PM >>>

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-----Original Message-----

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**To:** Dene Oliver  
**Cc:** Betsy Kinsley; James Anthony  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

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202 C Street, 9th Fl  
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[jwaring@sandiego.gov](mailto:jwaring@sandiego.gov)  
(619) 235 5718

>>> "Dene Oliver" <[doliver@olivermcmillan.com](mailto:doliver@olivermcmillan.com)> 4/5/2006 6:14:04 PM >>>

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CC: Boyle, Mike; Bush, Roger; Jones, Gary; Kinsley, Betsy; Lipidus, Robert; Waring, Jim

# EXHIBIT "21"



**Betsy Kinsley - Re: Hillel purchase on Lajolla Village Drive**

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**From:** Betsy Kinsley  
**To:** Dene Oliver; James Anthony; Neal Singer; Neal Singer  
**Date:** 4/7/2006 10:36 AM  
**Subject:** Re: Hillel purchase on Lajolla Village Drive  
**CC:** Gary Jones; Jim Waring; Mike Boyle; Robert Lipidus; Roger Bush

---

Please leave me off subsequent emails on this topic.

Thank you,

Betsy B. Kinsley  
Chief of Staff  
Council President Scott Peters  
(619) 236-6687  
[www.sandiego.gov/cd1](http://www.sandiego.gov/cd1)

Disclosure: Correspondents should assume that all communication to or from this address is recorded and may be reviewed by third parties.

>>> James Anthony 4/7/2006 10:30:27 AM >>>  
Dene,

---

VALUATION

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Thanks,

James P. Anthony, RPA, SR/WA, CM  
City of San Diego  
Real Estate Assets Department  
200 Third Avenue, Suite 1700



San Diego, CA 92101

 redacted numbers

>>> "Dene Oliver" <[doliver@olivermcmillan.com](mailto:doliver@olivermcmillan.com)> 4/6/2006 8:55 PM >>>

Thanks Jim. I look forward to getting the price and appraisal if possible so I can help Hillel with this process. Jim  
A please give me an email when you can on value and the appraisal. Dene

-----Original Message-----

From: Jim Waring [<mailto:JWaring@sandiego.gov>]

Sent: Thu Apr 06 13:48:15 2006

To: Dene Oliver

Cc: Betsy Kinsley; James Anthony

Subject: Re: Hillel purchase on Lajolla Village Drive

Dene;

Jim Anthony, of real estate assets is handling this transaction. He is way ahead of you and me. The deal has been appraised and the appraisal has been shared with Hillel. Hillel is trying to negotiate the price, but Jim and I agree the appraisal is reasonable and we are sticking to that number. Probably more importantly to the Hillel group is we will sell verses lease, which makes it easier for them.


At this point, once they accept the price, we will move forward to council with the sale recommendation.

Jim;

When we just spoke you were not positive of the exact appraised value. Please verify the amount and forward the number to Dean. Thanks.

---

James T Waring, Deputy Chief  
Land Use and Economic Development  
City of San Diego  
202 C Street, 9th Fl  
San Diego, Ca 92101  
[jwaring@sandiego.gov](mailto:jwaring@sandiego.gov)

 redacted numbers

>>> "Dene Oliver" <[doliver@olivermcmillan.com](mailto:doliver@olivermcmillan.com)> 4/5/2006 6:14:04 PM >>>

Jim, following up from our last meeting in the Mayors office and with you and Jerry at lunch today, I wanted to express my thanks for you taking this on for the Mayor to free up some one from the City staff to work quickly on the purchase documents. There is a hearing date on this in front of the council early May so it would be great if we could have something put together before then. I suppose if we don't, that based on our conversation today, that the Mayor can proceed, without further council approval, to complete the sale of the property following the land use approval. Please let me know ASAP who in the Property Department we should contact regarding the purchase documentation. Thanks so much. Dene

# EXHIBIT "22"

**James Anthony - RE: Hillel purchase on Lajolla Village Drive**

**From:** Jim Waring  
**To:** Dene Oliver  
**Date:** 4/11/2006 10:43 AM  
**Subject:** RE: Hillel purchase on Lajolla Village Drive  
**CC:** James Anthony; Shelia Billiard

Dene;

Early next week, I'm available Monday between 11 and 12, or Tuesday after 2. I do want im Antony to meet with us, since he knows so much more about the background and the facts.

Let me know what works for you.

Jim

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/11/2006 9:42 AM >>>

Jim, I have reviewed the first appraisal and you should as well. I need to review the second appraisal. It does not make sense that the appraised value as residential went up by more than 50 percent in less than 6 months. We need to look at this issue of value carefully. There are also offsets to value based on the items of public benenifit that are being required of Hillel long term. Perhaps you are not aware of the extent of these requests. Consideration also needs to be given to the fact that this is a nonprofit buyer. The City has a history of dealing fairly and favorably with non profits. A price of 1.3 million will kill this deal which is NOT Jerrys desire. I am on vacation this when with my family, could you meet next week to discuss this? As soon as I recieve the appraisal I will review it as well. Thanks for your time. Dene

-----Original Message-----

**From:** Jim Waring [mailto:JWaring@sandiego.gov]  
**Sent:** Mon Apr 10 13:36:03 2006  
**To:** Dene Oliver  
**Subject:** RE: Hillel purchase on Lajolla Village Drive

would say we can get the vote without the documents once we know the price. Worht the try.

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/6/2006 9:21 PM >>>

So do you agree that we can get the council approval w/o having the purchase documents in the package since this is now the Mayors jurisdiction?

**From:** Jim Waring [mailto:JWaring@sandiego.gov]

**Sent:** Thursday, April 06, 2006 1:52 PM

**To:** Dene Oliver

**Cc:** Betsy Kinsley; James Anthony

**Subject:** Re: Hillel purchase on Lajolla Village Drive

Dene;

Jim Anthony, of real estate assets is handling this transaction. He is way ahead of you and me. The deal has been appraised and the appraisal has been shared with Hillel. Hillel is trying to negotiate the price, but Jim and I agree the appraisal is reasonable and we are sticking to that number. Probably more importantly to the Hillel group is we will sell verses lease, which makes it easier for them.

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When we just spoke you were not positive of the exact appraised value. Please verify the amount and forward the number to Dean. Thanks.

James T Waring, Deputy Chief  
 Land Use and Economic Development  
 City of San Diego  
 202 C Street, 9th Fl  
 San Diego, Ca 92101  
 ing@sandiego.gov

(619) 235 5718

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/5/2006 6:14:04 PM >>>

Jim, following up from our last meeting in the Mayors office and with you and Jerry at lunch today, I wanted to express my thanks for you taking this on for the Mayor to free up some one from the City staff to work quickly on the purchase documents. There is a hearing date on this in front of the council early May so it would be great if we could have something put together before then. I suppose if we don't, that based on our conversation today, that the Mayor can proceed, without further council approval, to complete the sale of the property following the land use approval. Please let me know ASAP who in the Property Department we should contact regarding the purchase documentation. Thanks so much. Dene

**EXHIBIT "23"**

**James Anthony - Hillel**

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**From:** Jim Waring  
**To:** Betsy Kinsley  
**Date:** 4/18/2006 3:47 PM  
**Subject:** Hillel  
**CC:** James Anthony; Roger Bush

---

Betsy;

Thanks to Jim and Roger's good work we have reached a verbal agreement to sell the Hillel site for \$940,000 cash, with no credits or offsets. The \$940,000 is a good, appraisal derived number we can support as good for the city.

You need to be certain from a parliamentary perspective that a sale (verses a lease) can be heard and decided by the council. While the record supports an instruction for either sale or lease, there is evidently some language in one document that only references a lease.

On the 9th we will simply present a report supporting the \$940,000, with little if any backup or explanation, unless Scott needs more. This really isn't about the price from the oppositions perspective.

Let me know if you have any questions or need any additional information.

Jim

# EXHIBIT "24"



THE CITY OF SAN DIEGO

April 21, 2006

Mr. Gary L. Rasmuson, MAI  
14665 Yukon Street  
San Diego, CA 92129

Reference: AP: 627380 - Appraisal Services - Proposed Sale of Site 653  
La Scenic Drive and La Jolla Scenic Way La Jolla, California

Dear Mr. Rasmuson:

This letter is to authorize you to complete your updated appraisal of the above referenced property as quickly as possible. As the proposed sale has been scheduled to be heard before Council on May 9, 2006, your effort toward this end will be greatly appreciated.

Pursuant to Council Resolution R-294224, directing Real Estate Assets to enter into exclusive negotiations with Hillel of San Diego, please appraise the subject Site 653 and the northerly half right of way of La Jolla Scenic Drive North as they contribute to the overall value of the proposed Hillel Project site.

The value conclusion should be based on a private highest and best use scenario, as if available for sale in the open market, subject to the street and cul-de-sac vacation and offsite requirements as depicted on the Hillel development plan.

If we may be of further assistance, please call me at (619) 236-6938 or Jim Anthony at (619) 533-6509.

Sincerely,

Roger P. Bush, MAI  
Property Agent, Acquisition & Valuation Division

RPB/cj

cc: B. Lane MacKenzie, Supervising Property Agent  
James P. Anthony, Property Agent ✓

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**Real Estate Assets**

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199

Tel (619) 236-6020 Fax (619) 236-6706



# EXHIBIT "26"

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

SUBJECT: DISPOSITION OF CITY-OWNED REAL PROPERTY  
POLICY NO.: 700-10  
EFFECTIVE DATE: March 1, 2005

BACKGROUND:

The City of San Diego is owner of substantial real property which is used for various municipal purposes. As public service needs change, the requirements for these properties may be revised and, on occasion, certain parcels may be in excess of the City's current need. This requires that the site be reviewed in terms of its potential for future public use, as well as its potential economic benefit to the City.

The proceeds from the sale of City-owned lands are utilized for Capital Improvements Program projects, as required by the City Charter, Section 77, and the revenues generated from leases are normally utilized for General Fund purposes.

PURPOSE:

It is the purpose of this policy 1) to establish a procedure by which unused and marginally used City-owned real estate is reviewed for its potential public use, and for designating unneeded parcels for lease or sale; 2) to provide guidance for the auction, negotiated sale, or exchange of City-owned real estate; and 3) to establish the conditions under which City-owned real property may be leased.

POLICY:

It is the City's policy to manage its real estate assets so that municipal needs which rely on these assets may be properly implemented. It is not the City's policy to speculate in real estate. The City Council will review all City-owned real estate not adequately used for municipal purposes and determine the appropriate use of the property. Those properties needed for municipal purposes may be so designated. If a property is not needed for public use within the foreseeable future, it may be made available for lease or sale, or if it will be needed at a future time, it may be suitable for lease in the interim. Those properties not required for municipal use or designated for lease may be designated for sale.

The City shall optimize the sale price or lease rent from City-owned real estate based on relevant factors, including 1) an appraisal of the property which is no more than six months old at the time the transaction is presented to the City Council or one of its committees, 2) prevailing economic conditions and recent applicable trends, and 3) any special benefits to accrue from the sale or lease.

Discounts will not be negotiated unless an extraordinary need or circumstance is recognized by Council Resolution prior to negotiation, setting forth the amount of the discount and the justification for it.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

Since it is generally not in the City's best interest for a property transaction to be negotiated in open session, the City Council shall either approve, disapprove, or return to the City Manager for further negotiation or study, any recommendation regarding the disposition of City property.

PROCEDURE:

A. Real Estate Review

All unused and marginally used City-owned real estate will be reviewed on a continuing basis to determine public facility needs and General Plan element support needs on a timely basis. The following procedure shall apply:

1. Review by appropriate City departments and other governmental agencies.
2. Review by the Subdivision Review Committee.
3. Review by the Planning Commission for consistency with the General Plan.
4. The City Manager's recommendation and relevant comments are submitted to the Public Facilities and Recreation Committee.
5. Public Facilities and Recreation Committee recommends the designation of the property and any related actions to the Council.
6. The City Council then determines the designation to be applied to the property, i.e., public facility, open space, sale or lease (see Section B.).

B. Lease Versus Sale

City-owned real property not required for municipal uses will be designated for lease or sale using criteria listed below. At the time staff recommends whether the property should be sold or leased, Council shall be provided with an appropriate analysis of the alternatives.

- I. Criteria for Sales. Property shall be sold when:
  - a. The sale of a property will provide revenues necessary for public facilities which are unfundable through other revenue sources.
  - b. The property is unleaseable because of location, access, topography, or other considerations.
  - c. The sale would enhance the City's position relative to other activities, such as economic development efforts.
  - d. The sale would maximize the total economic return to the City.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

2. Criteria for Lease. Property shall be leased when:
  - a. The land can only be leased because of legal restraints, such as tideland grants, airports, dedicated parks, agricultural preserves, open space watershed or floodplains.
  - b. The property is now needed, or may be needed in the future, to provide the City with a site for public facilities, or unusual services not otherwise obtainable.
  - c. The property is in an area of uncertain future development and can be leased as an interim measure until future public needs or land use designations can be determined.
  - d. The City requires substantial control over development, use and reuse of the property.
  - e. The property has the immediate potential of a high return to the City because of its high demand and type of use, such as commercial and industrial lands.
  
3. Industrial Properties. Generally, City-owned industrial properties will be used to facilitate increased employment and otherwise enhance the local economy. Sale or lease of such property will be in accordance with Council Policy 900-3, Disposition of City-owned Industrial Property.

C. Sale of Real Estate

1. Auction. City property designated for sale shall generally be offered by public auction unless the parcel meets the criteria for a negotiated transaction as hereinafter set out in 3 below. Public auction sales shall be conducted in accordance with Municipal Code Section 22.0902.1, Sales of Real Property - Requirements for Sale at Auction. City Council reserves the right to reject any and all bids. The minimum acceptable bid will usually be set by qualified staff after considering readily available information. The intent of this procedure is to efficiently set a minimum bid which will insure a fair return to the City for its property, while encouraging maximum participation in the bidding process.
  
2. Term Payments. The Manager may offer term payment plans on properties to be sold in order to stimulate interest in the property. Term payment plans shall insure that the city obtains an appropriate rate of return on the unpaid balance. The Manager will have the authority to vary the terms and interest rates, as appropriate, to reflect current market conditions or other special needs.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

3. Negotiated Sales. Negotiated transactions shall comply with the requirements of Municipal Code Sections, as applicable, and may be approved under one of the following conditions:
  - a. When a parcel is landlocked.
  - b. When the sale to a contiguous owner would correct a site deficiency.
  - c. When a fee interest in a pipeline or other right-of-way is no longer required, it may be sold to a contiguous owner. A restrictive pipeline easement of adequate width or other required easements will be reserved from said sale.
  - d. When other governmental, public and quasi-public agencies submit acquisition proposals, a sale may be consummated per Municipal Code Section 22.0907, Sales of Real Properties to Public Agencies. These agencies shall include but not be limited to: Federal, State, and County agencies; school districts, special districts, and regulated utility companies.
  - e. When qualified nonprofit institutional organizations offer to purchase City-owned land, a negotiated sale may be consummated at fair market value providing there is 1) a development commitment, and 2) a right to repurchase or a reversion upon a condition subsequent. Institutional organizations such as churches, hospitals, extended care facilities, private schools and community service organizations are required to develop under the City's conditional use permit procedure.
  - f. When a property has been offered by public auction and no acceptable bids were received, it may be sold on a negotiated basis to any applicant submitting an acceptable offer within six months following the date of auction.
  - g. Real property exchanges may be consummated by direct negotiation per Municipal Code Section 22.0902.2, Exchanges of Real Property. However, exchanges will be considered only with other governmental agencies or when there is an advantage to the City.
4. Rezoning. Prior to completion of the sales transactions, City land(s) shall be rezoned in accordance with the General Plan, existing community plans or other City Council direction. Also, all unnecessary easements affecting title to the property shall be removed.
5. Easements. The City will receive current fair market value for the removal of restrictive easement(s) or access rights previously paid for by the City or other governmental agency or reserved in a sale of City property.



CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

D. Leasing.

1. Rate of Return. The City shall obtain a fair market rate of return on City-owned property being considered for lease and negotiate terms and conditions which will continue to sustain a fair rate of return through rent review, consumer price index adjustments, reappraisals or the application of percentage rents to gross income. The rate of return shall be based upon the highest rate commensurate with the highest and best use of the property, or a fair rate of return commensurate with the designated public use.
2. Rental Terms. Rental terms may be negotiated on the basis of fixed rates, percentages of gross income or combinations thereof, whichever is commensurate with the market place.
3. Minimum Rent. Percentage leases will provide a minimum rent which shall be adjusted at appropriate intervals which shall be no more than every five years to reflect 80 percent of the average annual rent actually paid during the preceding interval. In no event shall the adjusted minimum rent be less than the minimum rent in existences preceding the adjustment.
4. Long-term Lease. A lease in excess of three (3) years requires Council approval by Resolution. However, leases for wireless communication facilities for a term of up to ten (10) years may be executed by the City Manager.
5. Short-term Lease. Unless there are special circumstances, a lease term of three (3) years or less may be executed by the City Manager without Council Resolution. A short-term lease may not be renewed without Council Resolution. Council will be notified of a short-term lease, not later than 15 days following its execution.
6. Selection of Lessee. Leasehold proposals shall be evaluated essentially in terms of:
  - a. Consideration offered in the form of rent.
  - b. Financial capability.
  - c. Expertise regarding the proposed leasehold development and operation.
  - d. Nature of proposed development.
  - e. Special public benefits to be derived (if any).
7. Leasehold Assignments. Requests for assignment of leasehold interest shall be evaluated on the same basis as the criteria used in evaluating a leasehold proposal. The City Manager may authorize assignments which do not require amendment of the master lease provisions.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

8. Subleases. Requests for sublease approval will be considered on the merits of each individual transaction. No sublease shall be approved which would be detrimental to the City's rights under the master lease. The City Manager may authorize subleases which meet this condition and which do not require amendment of the master lease. The percentage rental rate shall be a minimum of fifty percent of the gross revenues from subleases for wireless communication facilities.
9. Amendments. Amendments of long-term leases require Council authorization. Whenever there is a substantial amendment, the City Manager shall provide an indication of the fair return for the leasehold. This can be accomplished by appraisals, a survey of the market rate of return, a combination of the above, or any other relevant information.
10. Updating Lease Terms. Lease terms shall be updated as much as practicable whenever there is a request for assignment, or significant amendments or subleases are proposed.
11. Financial Encumbrances. The City will generally not subordinate its fee interest to encumbrances placed against the leasehold by the lessee. The City Manager may approve appropriate financial encumbrances of the leasehold interest which provide that all loan proceeds are used for authorized improvement of the premises. Loans or refinancing in the form of encumbrances against the lease for the purpose of reducing equity or financing the sale of leasehold interest will not be allowed until the property is fully developed for uses authorized in the lease. After the property is developed, such financing may be permitted so long as there is also substantial benefit to be gained by the City. When encumbrances are made against a leasehold for its development, City staff shall take appropriate steps to insure that the proceeds go into the leasehold. It is recognized that the steps will depend upon the circumstances of the case and limitations on staff resources.
12. Improvements. Lease improvements installed by the lessee will be removed at termination without cost to the City, or will revert to the City, at the City's option. All leasehold improvements and alterations require prior approval by the City Manager.
13. Lease Term. Lease term will be limited to the shortest practical time commensurate with the amount of capital investment in permanent improvements to be made by the lessee.
14. Audits. All percentage leases shall be audited by the City Auditor and Comptroller in the first year of operation to establish proper reporting procedures and at least once every three years thereafter. More frequent audits may be made if appropriate. The City shall reserve the right to audit all other leases and agreements if determined warranted by the City Auditor and Comptroller.

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

15. Site Access Fee for Wireless Communication Facilities. A onetime site access fee shall be charged for all wireless communication facilities except within the City's Right of Way. The base fee for 2004 is Forty Thousand Dollars (\$40,000), and shall be increased on January 1 of each year corresponding to consumer price index. Renewal of existing leases or subleases for which a site access fee has not been paid shall be conditioned upon payment of one half of the site access fee.

E. Marketing.

Competitive offers for lease or sale shall be solicited from the open market place. This may be accomplished through a number of marketing techniques, such as requests for proposals (RFPs), a marketing subscription system, direct advertising, exposure through the real estate media, such as the multiple listing service, posting the property and any other appropriate means. Lands designated for industrial and scientific research uses shall be marketed in accordance with Council Policy 900-03.

F. Real Estate Broker's Fee.

The City will normally pay a real estate brokerage fee for qualified representation of a selected lessee or purchaser of City property. When the amount of rental or purchase price offered are criteria for selecting a lessee or purchaser in competitive situations, the selection will be based on the highest net rental or net purchase price, taking into account any brokerage fees involved in the competition. All brokerage participation and brokerage fees shall comply with Municipal Code Section 22.0905, Broker's Fee and Registration.

G. Priority Handling.

Since time is of essence in land transactions, all such actions by Council and Committee shall be given the highest priority and special handling. Such action which must first go before a Council Committee will be placed on an early portion of the Committee agenda in order to assure prompt action. Subsequent to the Committee action, the item shall be placed on the docket of the next regular City Council meeting as a Supplemental Item.

H. Public Utilities Installed by Private Entities.

The applicant for the use of unimproved City land for public purposes, such as streets, sewers, and other public utilities, shall compensate the City for the fair market value of the rights to be granted by the City. The amount of compensation shall be established by appraisal. However, lands which have been conveyed to the City after July 18, 1983, by private entities shall at the option of the grantor carry a reservation to the grantor for a period of 10 years following the date of conveyance to the City which would permit the grantor to install public utilities serving the grantor's adjacent land without the payment of compensation to the City therefor, and provided further that such installations shall not adversely affect any prospective use of the City's property. Persons who grant property to the City without charge shall have an automatic right to have such public service easements set aside on the donated property in the above manner.



CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

**CURRENT**

CROSS REFERENCE:

Council Policy 700-04  
Council Policy 700-09  
Council Policy 700-11  
Council Policy 700-12  
Council Policy 700-41  
Council Policy 700-06  
Council Policy 600-43  
Council Policy 900-03

HISTORY:

“Assignment and/or Subletting of City Leases”  
Adopted by Resolution R-169946 03/15/1962

Retitled to “Disposition of Surplus  
City-Owned Real Property” and

Amended by Resolution R-208091 06/05/1973  
Amended by Resolution R-212957 04/04/1975  
Amended by Resolution R-217309 12/21/1976  
Amended by Resolution R-218125 04/12/1977  
Amended by Resolution R-219507 10/19/1977  
Amended by Resolution R-220842 05/09/1978  
Amended by Resolution R-224022 07/16/1979  
Amended by Resolution R-250319 10/01/1979  
Amended by Resolution R-251154 02/11/1980  
Amended by Resolution R-251943 06/02/1980  
Amended by Resolution R-252266 07/14/1980  
Amended by Resolution R-252313 07/21/1980  
Amended by Resolution R-252966 10/27/1980  
Amended by Resolution R-255014 09/15/1981  
Amended by Resolution R-258160 03/28/1983  
Amended by Resolution R-258896 07/18/1983  
Amended by Resolution R-300187 03/01/2005