



OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE

PAUL E. ZELLERBACH
DISTRICT ATTORNEY

March 29, 2012

Mary Figueroa
Chancellor's Office
Riverside Community College District
1533 Spruce St., Suite 210
Riverside, CA 92507

Subject: City of Riverside

Dear Ms. Figueroa:

Thank you for meeting with District Attorney Paul Zellerbach, myself, and other concerned citizens of the City of Riverside on September 12, 2011. Thank you also for providing documents and information relating to your concerns. It is always a pleasure to encounter citizens who truly care about their community and take an active role in the governance of that community.

District Attorney Zellerbach asked that the documents provided be thoroughly reviewed, and that additional research be conducted in order to address your concerns.

Based upon the meeting, it is our understanding that your concerns could be narrowed to five major issues:

1. Loans from sewer funds used to fund Redevelopment Agency projects;
2. City Manager Hudson's discretionary spending fund;
3. Favoritism to Mark Rubin (developer);
4. Raincross property – public funds used for demolition; relocation of low income housing persons/families;
5. Transfer of Redevelopment Agency real property to the City

The following is an analysis and discussion of each concern:

I. Loans from sewer funds used to fund Redevelopment Agency projects

City Ordinance 2532 (amended and partially repealed by subsequent ordinances) addresses the city sewerage system. Section 4, subdivision (f) provides as follows:

All funds and moneys received from the collection of sewer service as herein established shall be deposited with the City Treasurer who shall establish and maintain a separate fund and account to be known as "The Sewer Service Fund". The money of such fund may be used for the retirement of sewer bonds and for payment of interest thereon and for the acquisition, operation, maintenance, construction and reconstruction of the sewerage

system, provided however, that such revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from the main trunk, interceptor and outfall sewers.

It is our understanding that you rely on this ordinance for the position that sewer funds can only be used for sewer related projects, and it was therefore illegal to lend money from the fund to the RDA projects. However, based upon our review, nothing in the ordinance specifically prohibits the questioned loans. Even if there were such a provision, it would be a violation of a city ordinance, and not a crime for the District Attorney's Office to address.

II. City Manager Hudson's discretionary spending fund

You and other citizens present expressed concern over the City Manager's ability to spend up to \$50,000 without the approval of the City Council, and referred to this ability as the City Manager's "discretionary spending fund." Our research has revealed that the ability to enter into contracts up to \$50,000 is available to all Department Heads, and the expenditures are reported to the City Council for their review. For instance, in fiscal year 2009/2010, the City Manager's contracts under \$50,000 totaled \$299,685, while the Parks and Recreation Department's contracts totaled almost two million dollars. In short, there is nothing criminal about this contract provision, and those who take issue with the provision should address the issue in the political arena.

III. Favoritism to Mark Rubin (developer)

After careful review, the material provided does not support an allegation that Mark Rubin received favoritism by the City. Even if such favoritism were supported by the material provided, it would not constitute a violation of the law, unless we could establish bribery was the mechanism which was used to obtain the favoritism. Again, the material provided shows no evidence of bribery or questionable monetary transactions between Mark Rubin and the City. While the City does have an anti-nepotism policy, there is no evidence that Mark Rubin is related to any of the RDA or City decision makers, and even if he were, the District Attorney's office does not have jurisdiction to enforce a City anti-nepotism policy.

IV. Raincross property:

A. Public funds used for demolition of Swiss Inn

Based upon the material provided, it would appear that Mark Rubin was in negotiations with the RDA to purchase the Raincross property beginning September 19, 2006. There seems to have been funding issues, and according to emails, Rubin agreed to hold onto the property for awhile. Ultimately, the property was sold to the RDA on July 16, 2008. On February 8, 2007, Rubin pulled a demolition permit for the property, located at 3120 Main Street, listing the demolition contractor as Dakeno, Inc. The permit indicated the total valuation was \$44,000, which presumably is the cost of the demolition. We were provided us with invoices in which the city paid Dakeno, Inc. for demolition services at other addresses on Main Street, but not for demolition services at the property owned by Rubin. The material provided does not support the allegation that the City made a gift of public funds to Rubin.

B. Relocation of low income housing persons/families

Another concern expressed was that the City failed to relocate low income persons/families when the Swiss Inn Board and Care was shut down and later demolished. However, there is no evidence in the material provided which supports

this assertion. One document provided in the material suggests the City did indeed relocate these people as required by the RDA guidelines. This document is an undated letter from Shober Consulting, Inc. addressed to the Swiss Inn Board and Care discussing the relocation plan. In any event, even if such relocation was not done, it would constitute a violation of RDA guidelines and not a violation of law subject to prosecution by this office.

V. Transfer of Redevelopment Agency (RDA) real property to the City

The transfer of RDA property to the City, which occurred on March 8, 2011, most likely resulted from pending legislation, AB 26 and 27. On June 29, 2011, AB 26 and 27 were enacted, although the legislation was deemed to be effective January 1, 2011. The legislation restricts actions that RDAs are authorized to take, and ultimately provide for the dissolution of RDAs on October 1, 2011. From January 1, 2011 to October 1, 2011, RDAs are restricted from, among other things, executing trust deeds or mortgages on any real or personal property owned or acquired by the RDA. (*H&S* §§34162(a)(5), 34163(d) & (f) and 34167(a)). The legislation further provides that the Attorney General and the Department of Finance are “interested persons” in actions dealing with violations of the provisions of the legislation. (*H&S* §33501) The legislation was challenged by the CRA and the League of California Cities, resulting in a stay by the California Supreme Court with respect to the provisions of the legislation, with the exception of enacting an Enforceable Obligation Payment Schedule. Ultimately the Supreme Court lifted the stay and affirmed the legislation.

While it is now settled that the transfer of RDA property to the City violated the law, this violation is a civil matter to be addressed by the Attorney General’s Office and not one that is properly addressed by the District Attorney’s Office.

Based upon the above, there does not appear to be any criminal conduct to warrant action by this office. We appreciate the time and effort you took to gather the required materials and present them to our office. Please be assured that District Attorney Zellerbach is very interested in the concerns of citizens, especially with regard to the proper exercise of the authority of our elected officials.

For some unknown reason, I only have your contact information. I would appreciate it if you would share the information in this letter with the rest of the group who attended our meeting.

Very truly yours,

PAUL E. ZELLERBACH
District Attorney

Vicki Hightower
Chief Deputy District Attorney
Special Prosecutions Section