

APPROVED
 By the Board of Directors of
 The Metropolitan Water District
 of Southern California
 at its meeting held

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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

James E. Duff
 EXECUTIVE SECRETARY

April 22, 1994

To: Board of Directors

From: Ad Hoc Committee on Water Standby Charge Exemption Appeals

Subject: Recommendations of the Ad Hoc Committee on Water Standby Charge Exemption Appeals

Report

The Ad Hoc Committee on Water Standby Charge Exemption Appeals met on March 29, 1994. Presentations were made by three appellants: (1) Mr. Patrick H. Mallen; (2) Mr. William Hickey, representing the Woodbridge Association; and (3) Mr. Arthur Frumkin, representing Mr. Tony Kato of Torson Pacific Investments, Inc.

Patrick H. Mallen owns 80 acres of undeveloped land in the Malibu hills in the Las Virgenes Municipal Water District. The General Manager determined that Mr. Mallen's property qualified for exemption under Category 3 which requires the execution of a written agreement to not use imported water, with financial penalties if the agreement is violated. Mr. Mallen refused to sign the agreement primarily because he was uncomfortable with the prospect of financial penalties if he ever decided to improve the land. He further stated that the property in question is under Coastal Commission restrictions that severely limits development. It was explained to Mr. Mallen that if water did become available for his property in the future, he would only be liable to repay the standby charges (plus interest and a 10 percent surcharge) for the "developed" portion of the property that actually used the water, not on the entire 80 acres.

Staff indicated that they would look at the exact nature of the land use restrictions on the property to determine if portions of the property are equivalent to land permanently committed to open space and maintained in its natural state. If so, Metropolitan may be able to give a partial Category 2 exemption, which would not require an agreement. It is expected that the required research will take three to four weeks.

Mr. William Hickey, representing the Woodbridge Association in the City of Irvine, contended that the association's homeowners are being "double charged" with standby charges on their development's open space areas, since the property owners are already paying the standby charges on their personal lots, and the value of the open space parcels is allocated to the personal lots.

Staff explained that the Ad Hoc Committee considered a similar case approximately one year ago. After a lengthy analysis, it was determined that the standby charge is not levied on the basis of assessed value, but is levied on the basis of benefits of availability of water to an individual parcel and is levied on a per parcel basis. The homeowners association has been billed for the standby charges on the common area parcels, so instead of having Metropolitan charge the individual owners, the homeowners association has to do that. It is clear from the powers that are granted to homeowners associations that they can bill the owners. Staff explained that the open space parcels are benefiting from Metropolitan's facilities because they are using water and are therefore subject to the standby charge.

In later discussion the Ad Hoc Committee determined that due to the small size and irregularity of many of the open space parcels, it would be more appropriate to impose the standby charge on an acreage basis in total rather than on a per parcel basis. This would reduce the total charge on the property by about 50 percent.

Mr. Tony Kato of Torson Pacific Investments, Inc. applied for exemption of property in the City of Irvine that is mainly a privately-owned golf course using water from two wells. There is also a club house on the property using public water. Mr. Kato's request was denied.

Mr. Arthur Frumkin, representing Mr. Kato, appeared before the Ad Hoc Committee and stated that the only water being used by the golf course is supplied by the two wells, which have been used for the past 27 years. He stated that there is no reason to believe that the golf course will need Metropolitan's water in the future, since the wells are currently pumping enough water and there is a third well that can be connected if necessary.

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The Ad Hoc Committee asked what would be done if the wells go dry in the future, since it is known that the underlying groundwater basin is considered unreliable. Mr. Frumkin stated that he can't say that will never happen, but the past history of the wells has been very reliable. It was pointed out to Mr. Frumkin that the groundwater basin serving the wells was being recharged in part from reclaimed imported water.

The recommendations made in this letter are exempt from the provisions of the California Environmental Quality Act because it can be seen with certainty that they could not have a significant effect on the environment.

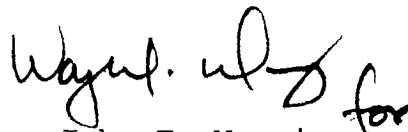
Recommendations

The Ad Hoc Committee on Water Standby Charge Exemption Appeals recommends that the Board:

1) Grant to Mr. Patrick H. Mallen one of the following: (a) exemption of his property under Category 3, providing Mr. Mallen signs the required agreement; or (b) after further research of the land use restrictions, if Mr. Mallen's property is found to be eligible, the General Manager be authorized to grant a partial exemption under Category 2, which does not require an agreement;

2) Deny the appeal of the Woodbridge Association on the basis that the open space parcels benefit from the District's water facilities but, due to the size and irregularity of most of the open space parcels, that the property be charged on the basis of total acreage rather than by individual parcel; and

3) Deny Mr. Tony Kato's appeal on the basis that the golf course benefits from the availability of the District's water facilities.


John T. Morris

CGP:jg

Recadhoc