



OFFICE OF MAYOR JERRY SANDERS
CITY OF SAN DIEGO

MEMORANDUM

July 27, 2007

TO: Honorable Members of the San Diego City Council
FROM : Mayor Jerry Sanders
SUBJECT: Item 200 on Council Docket of Monday, July 30

I am requesting that Item 200, "Approving Real Estate Broker Commissions" be continued from the Council docket of July 30. I have asked the City Attorney for his opinion on whether or not the San Diego office of Grubb & Ellis, one of the two firms being recommended to provide brokerage services for the sale of City land, may be conflicted, thereby disqualifying them as a potential contractor for those services.

As you know, Grubb & Ellis Consulting was retained last year to help our Real Estate Assets Department identify best practices that could be applied to our administration of this City department. Within the RFP for the consulting services there was a preclusion provision that stated the following:

"In order to avoid any real or perceived conflicts of interest, the successful Proposer to the RFP will be precluded from participation in any follow-on contracts that incorporate the findings of this RFP. Pursuant to the Scope of Work section of this RFP, the successful Proposer to the RFP will not be providing real estate brokerage services or recommendations regarding real estate brokerage services to the City under this RFP, and therefore would not, as long as no recommendations regarding brokerage services were provided by the successful Proposer, be precluded from any subsequent RFP that might call for brokerage services."

I have asked the City Attorney two questions:

1. Given the facts that a) Grubb & Ellis Consulting is a pure consulting practice "separate and apart" from Grubb & Ellis' brokerage services; and b) that the San Diego Grubb & Ellis office is merely an affiliate (meaning that they pay an annual fee and nothing else) of the national company, and as represented to us has separate ownership, is there any conflict between the participation of

the consulting arm in the first RFP and the participation of the local affiliate in the brokerage services RFP?

2. And if the relationship between the two firms is of a material nature, did the consulting firm make any recommendations that would preclude the local brokerage affiliate from participating in the brokerage RFP?

The City Attorney has assured me that they will provide an opinion by mid-August in time to docket this issue once again in September.

Thank you.

cc: City Attorney Michael Aguirre
City Clerk Elizabeth Maland