

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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Dare Delano, Assistant City Attorney  
City of Escondido  
201 North Broadway  
Escondido, CA 92025

SENT VIA EMAIL TO: [dare.delano@escondido.gov](mailto:dare.delano@escondido.gov)

Dear Dare Delano:

**RE: City of Escondido - Portion of APN 271-030-12 - Surplus Land Act Technical Assistance Letter**

Thank you for notifying the California Department of Housing and Community Development (HCD) of the City of Escondido's (City) inquiry into whether approximately 14 acres of land within Kit Carson Park, Assessor's Parcel Number (APN) 271-030-12 (Property), would qualify as "exempt surplus land" for the development of an ice-skating rink.

HCD reviewed the City's documentary evidence to determine whether Government Code section 54221, subdivision (f)(1)(J), also known as the Surplus Land Act's "valid legal restriction" exemption, would apply.

**Analysis**

As provided in Government Code section 54221, subdivision (f)(1)(J), "exempt surplus land" includes the following:

- (i) Surplus land that is subject to a valid legal restriction that is not imposed by the local agency and that makes housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. A declaration of exemption pursuant to this subparagraph shall be supported by documentary evidence establishing the valid legal restriction. For the purposes of this section, "documentary evidence" includes, but is not limited to, a contract, agreement, deed restriction, statute, regulation, or other writing that documents the valid legal restriction.

- (ii) Valid legal restrictions include, but are not limited to...
- (IV) Restrictions imposed by the source of funding that a local agency used to purchase a property, provided that both of the following requirements are met:
  - (ia) The restrictions limit the use of those funds to purposes other than housing.
  - (ib) The proposed disposal of surplus land meets a use consistent with that purpose.

According to the documentation provided by the City, the City owns and operates Kit Carson Park (Park) and proposes leasing a portion of the Park to The Rinks Foundation for approximately 50 years. The Rinks Foundation would in turn develop an indoor ice-skating rink that would provide private and public ice-skating hours.

The Park was purchased from the City of San Diego in 1967 through a voter-approved bond measure in 1966 (Bond Measure), authorizing the City to incur bonded indebtedness in the principal amount of \$825,000 for the acquisition and construction of a park site. The Bond Measure's ballot language limited the use of the funds to park acquisition and basic utility infrastructure, with the intent that the site be used exclusively for park purposes if acquired.

Based on HCD's review of the documentation provided, it appears that the restrictions imposed by the source of funding used to purchase the Park (i.e., the Bond Measure) "limit the use of those funds to purposes other than housing" (i.e., park purposes), and the City claims that the proposed lease of the Property for an ice-skating rink meets a use consistent with the purposes required by the Bond Measure.

### **Conclusion**

Assuming that the documentary evidence submitted by the City is accurate and that the Property is disposed of for the ice-skating rink, HCD finds that the Property qualifies as "exempt surplus land" under Government Code section 54221, subdivision (f)(1)(J).

If you have any questions or need additional technical assistance, please submit a request via the [Surplus Land Act Portal](#).

Sincerely,

*Lisa Krause*

Lisa Krause  
Section Chief, Surplus Land Act  
Housing Accountability Unit

cc: Taylor Anderson, Senior Counsel, Colantuono, Highsmith and Whatley, PC