

MINUTE ITEM

30. APPLICATION OF THE CITY OF LONG BEACH FOR EXPENDITURE OF TIDELAND OIL REVENUES FOR EQUIPPING THE LONG BEACH ARENA (FORMERLY, CONVENTION AND EXHIBIT HALL) - ADDITION NO. 2 - L.B.W.O. 10,130.

After consideration of Calendar Item 36 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION APPROVES THE APPLICATION OF THE CITY OF LONG BEACH, PURSUANT TO THE AUTHORITY OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., TO EXPEND SUBSEQUENT TO FEBRUARY 27, 1962, FROM ITS SHARE OF TIDELAND OIL REVENUES, NOT MORE THAN \$647,735 FOR EQUIPMENT TO MAINTAIN AND OPERATE THE LONG BEACH ARENA (CONVENTION AND EXHIBIT HALL), SUBJECT TO THE CONDITION THAT THE EQUIPMENT AND ITS USE CONFORM IN ESSENTIAL DETAILS TO THE LISTS AND BACKGROUND INFORMATION HERETOFORE SUBMITTED TO THE COMMISSION AS DETERMINED BY A FINAL ENGINEERING REVIEW AND AUDIT AFTER THE EQUIPMENT IS IN USE.

Mr. Harold A. Lingle, Deputy City Attorney for the City of Long Beach, expressed appreciation to the Commission, its staff, and the Attorney General's staff for their cooperation.

Attachments

Calendar Item 36 (17 pages)
(Photographs referred to in Calendar Item 36 as Exhibit "A" are on file in L.B.W.O. 10,130.)

CALENDAR ITEM

36.

APPLICATION OF THE CITY OF LONG BEACH FOR EXPENDITURE OF TIDELAND OIL REVENUES FOR EQUIPPING THE LONG BEACH ARENA (FORMERLY, CONVENTION AND EXHIBIT HALL) - ADDITION NO. 2 - L.B.W.O. 10,130.

On May 24, 1960 (Minute Item 18, pages 5977-80), and on September 29, 1960 (Minute Item 26, pages 6318-20), the Commission approved applications by the City of Long Beach for costs to be expended for the construction of a Convention and Exhibit Hall in the total amount of \$7,259,250. At present the structure appears as shown in the photographs on attached Exhibit "A". Completion date for the building is now estimated as July 1, 1962.

Prior to the Commission action in approving costs for the facility, the question of the legal propriety of the proposed expenditure was proposed to the office of the Attorney General for opinion. It is the opinion of the Attorney General's office that the use by said City of its tideland trust funds to construct a legitimate Convention and Exhibit Hall is legally permissible and that, if the real or main purpose of the proposed Long Beach Convention and Exhibit Hall will be to promote commerce and navigation, such project can qualify as a tideland trust use and the entire cost of such facility may be borne by tidelands trust income. Other uses of the facility would be permissible provided that any revenues derived would be impressed with the tidelands trust. However, utilization of trust moneys would not be permissible for inclusion in the proposed facility of special features relating to anticipated non-trust use.

In letter to the Commission dated November 7, 1961, the City made application for authorization for expenditure of \$647,735 from its portion of tideland oil revenues to cover the cost of equipment necessary to carry out the proposed activities of the Long Beach Arena. The requested equipment will accommodate such events as trade shows, beauty pageants, circuses, home shows, banquets, large seated assemblies, and concerts; and includes such types of items as 7000 upholstered folding chairs, 500 banquet tables, pianos, lighting equipment, heavy-duty material trucks, tools for a complete wood workshop, and heavy-duty janitorial equipment. It is understood that sporting events such as ice hockey and basketball are in prospect, with construction and equipment costs to be supplied from other than tideland funds. However, all proceeds from any use of the hall will go into the Tideland Trust Fund.

By way of additional information, the City stated in a letter to the Commission, dated January 30, 1962, that "The primary purpose of the proposed Convention and Exhibit Hall is to accommodate World Trade Shows; Commercial Exhibitions; International Beauty Contests; National and State-wide Political Conventions; Conventions of International, National, Regional and State wide Organizations; and other events designed to promote, advertise and exploit the commercial, industrial, agricultural, mineral and climatic resources of California. The City Council has approved the designation of the structure as the Long Beach Arena in lieu of the former name of Convention and Exhibit Hall. Every effort possible is being made to stress the use of the Long Beach Arena for the promotion of commerce and navigation and neither the unit cost of, nor the quantity of, equipment is greater by reason of the fact that there will be some incidental use for non-trust purposes."

CALENDAR ITEM 36. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION APPROVE THE APPLICATION OF THE CITY OF LONG BEACH, PURSUANT TO THE AUTHORITY OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., TO EXPEND SUBSEQUENT TO FEBRUARY 27, 1962, FROM ITS SHARE OF TIDELAND OIL REVENUES, NOT MORE THAN \$647,735 FOR EQUIPMENT TO MAINTAIN AND OPERATE THE LONG BEACH ARENA (CONVENTION AND EXHIBIT HALL), SUBJECT TO THE CONDITION THAT THE EQUIPMENT AND ITS USE CONFORM IN ESSENTIAL DETAILS TO THE LISTS AND BACKGROUND INFORMATION HERETOFORE SUBMITTED TO THE COMMISSION AS DETERMINED BY A FINAL ENGINEERING REVIEW AND AUDIT AFTER THE EQUIPMENT IS IN USE.

COPY

EXHIBIT "A"

STATE OF CALIFORNIA
Los Angeles 12

Interdepartmental Communication

TO: Mr. Francis J. Hortig,
Executive Officer
State Lands Commission
302 State Building
Los Angeles 12, California

Date: December 14, 1961
File No.

FROM: Department of Justice - L.A.

SUBJECT: Request for an Informal Opinion
Letter (City's Request for Approval
of Expenditures for Long Beach
Arena Equipment) W.O. 396.222, L.B.W.O. 10,130

On November 28, 1961, you informed us that the City of Long Beach had submitted a request for Commission approval of the expenditure from the City's share of tideland oil revenues of approximately \$647,735 to cover cost of equipment to maintain and operate the Convention and Exhibit Hall, now known as the "Long Beach Arena". A proposed equipment list with estimated costs, which had been submitted by the City Attorney, was made available to us, as well as a Report dated November 21, 1961, by Mr. Bastues, Supervisor of your Long Beach office.

Our opinion was requested as to whether the expenditures from the City's share of tideland oil revenues for this purpose may be approved by the Commission in accordance with the provisions of Chapter 29, Statutes of 1959, 1st. E.S. By subsequent informal communication, you indicated some question as to the accuracy of the City's cost estimate relating to a particular item, and asked our view as to the desirability or necessity of checking such estimates prior to Commission approval, rather than at the time of final audit and review. Our opinion may be summarized as follows:

1. Expenditures of trust moneys for the designated equipment may be approved provided that the Commission determines that its real or main purpose is the promotion of commerce and navigation, and to the extent that neither the unit cost nor quantity thereof is increased by its intended incidental use for nontrust purposes.

2. All steps reasonably practicable should be taken to insure that the amounts of trust moneys actually expended do not substantially exceed the amounts ultimately allowed as proper trust expenditures.

December 14, 1961

3. The materials submitted to us indicate that prior to any action upon the subject request for approval, the Commission should determine whether the real or main purpose of the Arena continues to be the promotion of commerce and navigation.

Background

On April 22, 1960, our office advised that tideland revenue could be expended for the building of the Convention and Exhibit Hall if its real or main purpose were considered by the Commission to be the promotion of commerce and navigation. We further stated that this need not be the sole purpose, but that additional incidental purposes were permissible, provided that trust moneys could not be used to pay for special features relating to anticipated nontrust uses.

On May 24, 1960, the Commission approved the expenditure of \$6,100,000 for such building, relying in part upon statements in the City Attorney's letter of May 3, 1960, that the real or main purpose was the promotion of commerce and navigation, and upon plans and specifications in which references to previously planned recreational features were deleted. On September 29, 1960, the Commission approved the expenditure of an additional \$1,159,250 for this purpose.

On June 22, 1961, the Commission gave conditional approval of certain expenditures for the operation of the Hall, subject to legal review by the Attorney General. On June 27, 1961, we advised that the Commission could approve these expenditures only to the extent that they were properly attributable to uses for trust purposes, and suggested the advance formulation of an accounting system for the apportionment of revenues and expenditures as between trust and general municipal funds.

Discussion

1. The principles previously enunciated are applicable to the subject expenditures. Thus, as to each item it should be determined whether its need arises from intended trust or "incidental" uses. In the event the need for any item arises solely or primarily from proposed nontrust uses, the expenditure of trust moneys therefor should not be approved. Likewise, approval should be withheld to the extent, if any, that the required number or unit cost of any item is increased by proposed incidental uses.

2. As we have stated previously in connection with subsidence expenditures, there is no provision in the law for the payment of interest by either the City or the State in the event there is a disparity between original estimates and amounts ultimately allowed upon final audit and review. Thus,

December 14, 1961

it is desirable from the State's standpoint to avoid expenditures of trust moneys in excess of amounts ultimately allowed, and all reasonable steps should be taken in advance to prevent such an excess.

3. In examining the materials furnished to us, we have noted the following:

- a. That the City Council has renamed the former "Convention and Exhibit Hall", the "Long Beach Arena".
- b. That in addition to trade shows, projected uses include beauty pageants, a circus, a "Chevrolet New Car Show", a decorator's show, ice shows and league play by ice hockey and basketball teams.
- c. That the City proposes to install (by use of general municipal funds) an ice installation and a basketball court, thus reinserting features similar to those specifically deleted from plans originally submitted to the Commission on May 24, 1960.
- d. That the daily rental for commercial events is to be \$800 or 10% of gross, as contrasted to the Los Angeles Sports Arena which charges \$2,000 or 20% of gross.

Although we have no information as to the relative amount of use for various purposes, the first three items suggest the possibility that the City has altered its original plan, as represented to the Commission, to use the Hall (or Arena) primarily for trust purposes and only incidentally for other purposes. If the Arena is to be used primarily for nontrust purposes, it would appear improper to approve any additional expenditures for equipment, and action may be required in connection with the expenditures previously approved. It is our advice that the Commission take steps to determine whether the present character of the Arena and its projected future use are such as to justify the use of trust moneys, prior to approval of the subject expenditures.

As stated in our opinion of June 27, 1961, when the Hall is used for nontrust purposes, it is the obligation of the City to secure adequate rentals and fees. The Commission is not empowered to substitute its business judgment for that of the City. However, grossly inadequate fees may amount to a subsidy of nontrust activities out of trust revenues. Although the disparity in fees set forth in item (d) may be justifiable by such factors as difference in location, it seems that the City should be asked to furnish such justification.

Please let us know if we can be of any further assistance in connection with this matter.

JAY L. SHAVELSON,
Deputy Attorney General

JLS:ig

STATE OF CALIFORNIA
Los Angeles 12

Interdepartmental Communication

To: Mr. Francis J. Hortig,
Executive Officer
State Lands Commission
302 State Building
Los Angeles 12, California

Date: December 27, 1961
File No.

From: Department of Justice - L.A.

Subject: Request for Informal Opinion
(City's Request for Approval of
Expenditures for Long Beach
Arena Equipment) W.O. 396.222,
L.B.W.O. 10,130 Supplementary
Memorandum

By informal opinion dated December 5, 1961, and indexed letter dated December 24, in response to the subject request, we stated that the materials submitted with said request indicated the desirability of a Commission determination as to whether the real or main purpose of the arena continues to be the promotion of commerce and navigation.

On December 18, 1961, our attention was called to a letter from the City Attorney informing the Division as to prospective uses of the Arena. This letter includes the following list of events for which dates have been received:

Home O'Rama Trade Show (Tentative)
State College Graduation (Tentative)
Rod & Custom Auto Rama Trade Show
California Dry Cleaners Association
Trade Show
Decorators Trade Show (Tentative)
China Painters National Trade Show
International Beauty Congress
New Car Trade Show

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Ringling Bros. Circus

Torrance Police Officers Association
Show

Ice Show

College Basketball Tourney

High School Basketball Tourney

Sportsman's Trade Show (Tentative)

California Eastern Star Convention

Southern California Democratic Party
Meeting

The letter also contains the following statement:

"There have been inquiries about the availability of the Arena for many other events. However, until it is completed and furnished, it is virtually impossible to book some of these events and that is particularly true of trade shows and conventions. The larger conventions and trade shows book their dates from three to five years in advance; and after the building is completed, we feel certain from the present inquiries that there will be a great demand for the use of the building."

After receipt of this additional information, we felt that a more detailed statement of our opinion as to the criteria applicable to the recommended Commission determination would be helpful to you, and that is the purpose of this memorandum.

It is our opinion that trust moneys may properly be expended only in aid of the basic trust purpose to establish and maintain a harbor and necessary or convenient related facilities for the promotion and accommodation of commerce, navigation and fisheries, and in aid of other statewide purposes specifically authorized by the granting statutes.

Mallon v. City of Long Beach, 44 Cal. 2d 199, 205 (1955);

Morse v. City of Long Beach, 31 Cal. 2d 254, 262 (1947);

Cf. People v. City of Long Beach, 51 Cal. 2d 857, 880-881
(1951);

Haggerty v. City of Oakland, 161 Cal. App. 2d 407,
413 (1958).

The City may take the position that the term "commerce" as used in the granting statutes is to be interpreted in its broadest sense so as to include every form of business activity.

Cf. Gibbons v. Ogden, 22 U.S. 1 (1824); 15 C.J.S.,
Commerce, § 1

However, in light of its context in the granting statutes and the historical derivation of the statutory trust language, it is our opinion that the term "commerce" may not be interpreted in its broadest sense so as to include business, sports and recreational activities having no relation whatever to the Port and its operation.

See Statutes of 1911, page 1304; Statutes of 1925,
page 235; and Statutes of 1935, page 193*

Illinois Cent. R. Co. v. State of Illinois, 146 U.S.
387, 452 (1892);

City of Long Beach v. Lisenby, 175 Cal. 575, 579 (1917);

People v. California Fish Co., 166 Cal. 576, 584 (1913).

Applying these criteria to the aforesaid scheduled uses, such activities as graduations, circuses, local police officers' shows, ice shows, basketball tournaments, and political party meetings have no apparent relation to the Port or the promotion of any authorized trust purpose. Nor does the designation of an activity as a "trade show" necessarily imply that such activity is in aid of the trust. For example, if the trade involved makes no utilization of Port facilities and is not concerned with navigation or fishery, it is our opinion that such a show would have no relation to authorized trust purposes. On the other hand, certain activities not obviously related to the trust might nevertheless have a tendency to promote proper trust purposes, in which case the Commission is not empowered to substitute its judgment for that of the City as to the wisdom or efficacy of such activity.

In summary, it is our suggestion that the Commission direct an inquiry to the City as to whether and in what manner the presently scheduled activities relate to navigation or fishery, or to commerce conducted by or through the Port. Further inquiry should be made as to the exact nature of anticipated future uses of the Arena, and the relation of such uses to the aforesaid trust purposes. Inquiry should also be made as to the relative amount of use of this facility for trust and nontrust purposes, and as to the specific bases for the City's representation that it will be used primarily for trust purposes. For your convenience, a suggested rough draft of such an inquiry is enclosed herewith.

JAY L. SHAVELSON,
Deputy Attorney General

JLS:ig
cc: Mr. Goldin

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* The statutory uses authorized by Statutes of 1955, page 3894,
are specifically made inapplicable to tideland oil revenues.

SUGGESTED DRAFT OF LETTER TO
LONG BEACH CITY ATTORNEY

Dear Sir:

We would appreciate your cooperation in securing certain additional information in connection with your request of November 7, 1961, for Commission approval of the expenditure of trust moneys for the purpose of equipping the facility now designated as the "Long Beach Arena". The purpose of this additional information will be to assure the Commission that the City continues in its intention to operate this facility primarily in aid of the trust, and that other uses will be merely incidental to this real or main purpose.

With your letter of December 13, 1961, to our Long Beach office, you included a list of events for which dates have been reserved. You also stated that it is not possible to book some of the larger convention and trade shows until completion of the facility, especially since they generally book their dates three to five years in advance. As to the presently reserved dates, we would appreciate your informing us, as to each event, whether it has any connection with navigation, fishery, or with commerce conducted by or through the Port, and if so, what is the nature of this connection. For example, as to the trade shows, do these relate solely to local or domestic business, or is there a reasonable likelihood that they will promote the use of the Port?

We would also appreciate a more specific statement as to the contemplated but unscheduled events and their relation to navigation, fishery, or the operation of the Port. In the event that presently

scheduled events are primarily unrelated to the trust, at what future time may we anticipate that trust purposes will become predominant?

We are also informed that the daily rental for sports and recreational events at the Arena will be \$800 or 10% of gross, as compared with the Los Angeles Sports Arena which charges \$2,000 or 20% of gross. We assume that this difference is justified by differences in location, services provided, etc.; however, we would appreciate an explanation of this apparent discrepancy.

Your prompt and detailed reply hereto will be most helpful and will facilitate prompt Commission action upon the presently pending request for approval.

FRANCIS J. NORTIG, Executive
Officer, State Lands Division

COPY

EXHIBIT "C"

L.B.W.O. 10,130

January 15, 1962

Honorable Gerald Desmond
The City Attorney of Long Beach
Suite 600, City Hall
Long Beach 2, California

Attention: Mr. Harold Lingle, Deputy City Attorney

Dear Sir:

We would appreciate your cooperation in securing certain additional information in connection with your request of November 7, 1961, for Commission approval of the expenditure of trust moneys for the purpose of equipping the facility now designated as the "Long Beach Arena". The purpose of this additional information will be to assure the Commission that the City continues in its intention to operate this facility primarily in aid of the trust, and that other uses will be merely incidental to this real or main purpose.

In connection with the list entitled, "Proposed Equipment and Estimated Cost for New Exhibit Hall Annex" which was attached to your letter of November 7, 1961, the expenditure of trust monies for the designated equipment may be considered for approval by the Commission provided that its real or main purpose is the promotion of commerce and navigation, and to the extent that neither the unit cost nor quantity thereof is increased by its intended incidental use for non-trust purposes.

For an understanding of the purposes proposed for use of the equipment and also for assurance that costs thereof will not be increased by reason of usage for non-trust purposes, we would appreciate an explanation for each item as to its degree of need for trust purposes only as compared to non-trust purposes. The degree of need should be advanced with respect to both the character of the equipment as well as the number of units of the item.

With your letter of December 13, 1961, to our Long Beach office, you included a list of events for which dates have been reserved. You also stated that it is not possible to book some of the larger convention and trade shows until completion of the facility, especially since they generally book their dates three to five years in advance. As to the presently reserved dates, we would appreciate your informing us, as to each event, whether it has any connection with navigation, fishery, or with commerce

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January 15, 1962
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The City Attorney of Long Beach
Attention: Mr. Harold Lingle, Deputy City Attorney

conducted by or through the Port, and if so, what is the nature of this connection. For example, as to the trade shows, do these relate solely to local or domestic business, or is there a reasonable likelihood that they will promote the use of the Port?

We would also appreciate a more specific statement as to the contemplated but unscheduled events and their relation to navigation, fishery, or the operation of the Port. In the event that presently scheduled events are primarily unrelated to the trust, at what future time may we anticipate that trust purposes will become predominant?

In discussion with representatives of the City, we were informed of the proposed daily rentals for events at the Arena as compared with those of the Los Angeles Sports Arena. We assume that the difference is justified by differences in location, services provided, etc.; however, we would appreciate an explanation of this apparent difference.

Your prompt and detailed reply hereto will be most helpful and will facilitate Commission consideration of the presently pending request for approval.

Very truly yours,

/s/ W. E. Bastues

W. E. BASTUES
Supervisor - Long Beach Office

WEB:enb

cc: State Land's Division, Los Angeles
Attn: Supervising Mineral Resources
Engineer.

EXHIBIT "D"

COPY

Offices of
THE CITY ATTORNEY
OF LONG BEACH
Suite 600 City Hall
Long Beach 2, California
HEmlock 6-9041

January 30, 1962

Mr. Francis J. Hortig
Executive Officer
State Lands Commission
302 State Building
Los Angeles, California

Re: Furnishing of Long Beach Arena

Dear Mr. Hortig:

Further reference is made to our request of November 7, 1961 for approval of the expenditure of tideland oil monies for the furnishing of the "Long Beach Arena."

The latter is a name given to the structure by recent action of the City Council after a contest among the citizens was conducted to obtain suggestions. There had been no official name given to the building previously and it had been referred to, with attendant confusion, by various titles. Perhaps most used, and widely criticized, was "Auditorium Annex" which was hardly appropriate for this splendid structure which greatly overshadows, in all respects, the neighboring, old and small Auditorium. Frequent identification with the community were the reasons expressed by the Councilmen for their selection.

The proposed use of the building has in no way changed and as set forth in our letter of May 4, 1960:

"The primary purpose of the proposed Convention and Exhibit Hall is to accommodate World Trade Shows; Commercial Exhibitions; International Beauty Contests; National and State-wide Political Conventions; Conventions of International, National, Regional and State-wide Organizations; and other events designed to promote, advertise and exploit the commercial, industrial, agricultural, mineral and climatic resources of California.

"The facility will serve to promote the development and operation of the Port of Long Beach and aid in the furtherance of commerce, transportation, shipping and navigation, in that trade, shipping and commercial associations will be provided a place to meet or hold conventions and exhibitions in the immediate vicinity of the

Mr. Francis J. Hortig

January 30, 1962

Port of Long Beach. By such activities the commerce of the port will be promoted by encouraging those associations to become familiar with the port and its assets. The City of Long Beach Harbor Department has built extensive facilities to accommodate and promote commerce and navigation, which facilities are occupied by tenants, or otherwise used by persons or firms engaged in industries related to port activities. The proposed Convention and Exhibit Hall will provide a place for these tenants, persons and firms, as well as all other interested parties, to meet, exchange ideas, exhibit their products and have the functions which are necessarily incidental to such meetings."

Every effort possible is being made to stress the use of the Long Beach Arena for the promotion of commerce and navigation and neither the unit cost of, nor the quantity of, equipment is greater by reason of the fact that there will be some incidental use for non-trust purposes.

There will be incidental use but only when such will, in no way, interfere with a use for trust purposes. And we believe it significant that all proceeds from all use of the hall will go into the Tideland Trust Fund. Certainly it is important that costs be kept down by obtaining maximum use of the structure.

This office has just prepared an ordinance for the regulations of the Long Beach Arena and Section 7410.9 (b) provides:

"(b) Trust Purposes - The manager is directed to promote the use of the arena for events which are of statewide interest and which are connected with the trust uses and purposes governing the City's administration of the tide and submerged lands on which the arena is located. In order to promote such events the manager may make charges as he deems reasonable to recover anticipated operation expenses."

We believe you will be interested in the enclosed news item and editorial from today's paper which indicates the expense and effort of the City government and of individual citizens to make the best use of the facilities. None of such expense comes from trust monies.

Each and every item on the list of equipment which accompanied our November 7 letter is necessary for the use of the building in connection with trust purposes. Non-trust monies will be used for any equipment or furnishings needed for use of a non-trust character.

The use of the Long Beach Arena for any convention will help advertise the Port of Long Beach, for we are informed by visitors attending such conventions that a highlight of their visit is the tour of the Long Beach Harbor which is customarily arranged for all conventions and we are advised that considerable trade through the Port has been initiated after such contacts.

Mr. Francis J. Hortig

January 30, 1962

We believe that many trade shows and exhibitions will be attracted by the fact that, since there is no bonded indebtedness to be paid off, the rental charges for the Long Beach Arena will be less than required for the use of buildings of similar size in the Southern California Area.

May we emphasize again the urgency of gaining the approval of the Commission at its February meeting so that the building may be put into use without delay. More than half of the total amount is for seating which must be advertised for bids.

Very truly yours,
/s/ Gerald Desmond

GERALD DESMOND
City Attorney

GD:pc
Enc.

cc: Hon. Edwin W. Wade, Mayor, City of Long Beach
Hon. John Mansell, City Manager of Long Beach

STATE OF CALIFORNIA
Los Angeles 12

Interdepartmental Communication

TO: State Lands Commission
206 State Building
Los Angeles 12, California

Date: February 2, 1962
Your
File No. L.B.W.O. 10,130

Attn.: Mr. F. J. Hortig
Executive Officer

FROM: Department of Justice

SUBJECT: Long Beach Arena

We are writing in regard to City Attorney Desmond's reply to Mr. Bastues's letter of January 15, 1962, relating to the Long Beach Arena. We have noted the following representations in that letter:

- (1) That the proposed uses of the building set forth in the City Attorney's letter of May 4, 1960, have in no way changed.
- (2) That all items of equipment for which approval is sought are needed for the promotion of commerce and navigation, and that neither the unit cost of, nor the quantity of, equipment is greater by reason of incidental non-trust uses.
- (3) That incidental uses will be limited to those which in no way interfere with trust uses.
- (4) That all proceeds from all use of the Arena will go into the Tideland Trust Fund.
- (5) That the City Attorney has prepared (and the City Council will presumably adopt) an ordinance directing the manager of the Arena to promote trust uses thereof.
- (6) That use of the Arena for conventions of any nature will cause the initial contacts which will result in considerable trade through the Port.

Assuming your concurrence in the factual accuracy of these representations, it is our opinion that the Commission is legally justified in approving

Mr. F. J. Hortig
State Lands Commission

2.

February 2, 1962

the proposed expenditures. We have previously advised you of our opinion as to the criteria for ascertaining whether particular purposes are or are not related to the public trust, by memorandum dated December 27, 1961.

JAY L. SHAVELSON
Deputy Attorney General

JLS:mu

cc - Fred W. Kreft
Howard S. Goldin