



California Fair Political Practices Commission

June 16, 1986

Carol A. Korade
Assistant City Attorney
City of Newport Beach
Office of the City Attorney
P.O. Box 1768
Newport Beach, CA 92658-8915

Re: Request for Written Advice on
Behalf of the Newport Beach
City Council
Our File No. A-86-166

Dear Ms. Korade:

You have written requesting advice on behalf of all seven members of the Newport Beach City Council; specifically, Mayor Phillip Maurer, Ruth Plummer, Evelyn Hart, Jacklyn Heather, Donald Strauss, Bill Agee and John Cox.

QUESTION

May city councilmembers who have received theater passes which may be worth more than \$250 still participate in a decision affecting the donor if the passes are returned and the actual use of the passes prior to their return has been less than \$250 worth?

CONCLUSION

Under the particular circumstances here, where the actual use is verifiable and has been less than \$250 in value and the passes have been returned, so as to preclude any future further use, the councilmembers may participate.

FACTS

Edwards Theaters Circuit, Inc. has a ground lease for the maintenance of a two screen theater complex in the City of Newport Beach. For more than ten years, Edwards Theaters has customarily sent free movie theater passes to members of the Newport Beach City Council, heads of City departments, and members of various City boards and commissions. This pass is

valid for one year and provides admission to the identified City person plus three guests. The pass is valid in the 123 Edwards Theaters screens in the State of California and there is no limitation on use. The pass states that it is not transferrable.

Edwards Theaters submitted a Use Permit Application to the City of Newport Beach on March 28, 1986 for the construction of two additional theater auditoriums.... The City of Newport Beach requests guidance for determining whether the members of the Planning Commission and City Council must disqualify themselves from making or participating in the decision on this Use Permit Application.

Edwards Theaters has provided the City with a detailed analysis which attempts to conduct a study of the fair market value of these theater passes.... This study has compiled data from the Edwards movie theater screens within ten miles of the City of Newport Beach. This ten mile radius is the expected maximum radius of use. Each time the pass recipient uses this movie theater pass, he or she is required to sign in at the movie theater box office. These sign-in sheets were maintained and preserved in the regular course of Edwards Theaters business and were scrutinized in order to compile the attached data. The survey indicates the number of recorded times that a City Council Member and Planning Commissioner used the pass in 1985 and from January 1 to April 27 of 1986 in the Edwards Theaters within the ten mile radius.

* * *

Due to the difficulty in weighing ... [certain] variables, Edwards Theaters has attempted to compute the fair market value of one paid admission by compiling gross box office receipts and dividing it by the number of tickets sold. Edwards Theaters concludes that the average admission price for one paid admission in all of Edwards Theaters is \$3.85. The second question is, whether this average cost or value of admission construed to be \$3.85 is a proper statistical figure?

... [T]he maximum use of the tickets for theaters within a ten mile radius of the City of Newport Beach

Carol A. Korade
June 16, 1986
Page 3

for the year 1985 is computed by simple multiplication. The maximum use was 58 times multiplied by \$3.85 average paid admission which is \$223.30. The statistics received for 1986 are for 16 weeks and the maximum usage during the 16 weeks is 37 times which computes to an average of 2.3 times per week. If this rate were to continue for the entire year of 1986, this would result in an attendance of 120 times. This 120 figure when multiplied by \$3.85 per visit computes to a maximum valued use of \$460.46....

If the statistical analysis is proper, the maximum actual use in 1985 was under the \$250.00 figure. If the first quarter of 1986 was projected throughout the entire year, it is possible that the \$250.00 figure could still be exceeded. However, the projection may not be accurate.

Since your original letter, I have been advised by Mr. Harold Davidson, counsel for Edwards Theaters Circuit, Inc., that Edwards has requested return of the passes and that they are being returned.

ANALYSIS

The Political Reform Act (the "Act")^{1/} requires that public officials disqualify themselves from making or participating in making decisions which will have a reasonably foreseeable material financial effect, distinguishable from the effect upon the public generally, on:

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(e).

A material financial effect will exist if the donor of gifts "appears" before the governmental entity in question (2 Cal. Adm. Code Section 18702.1) or there will otherwise be a

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Carol A. Korade
June 16, 1986
Page 4

reasonably foreseeable material financial effect upon the donor of a gift of \$250 or more. (See generally, 2 Cal. Adm. Code Sections 18702 and 18702.2.)

The Commission has recently adopted a series of regulations regarding the valuation of gifts (see generally, 2 Cal. Adm. Code Sections 18726, et seq.). However, because of concerns expressed by various interested parties, the regulations dealing specifically with the valuation of gift passes were not considered and acted upon by the Commission. Consequently, the currently-existing policy directive of the Commission may be found in the Hopkins Opinion, 3 FPPC Opinions 107, No. 77-022, Dec. 8, 1977.

It is the effect of the Hopkins Opinion on your situation that has caused you to ask for guidance. The thrust of the Hopkins Opinion on the issue of the valuation of passes was with respect to potential usage of passes which had been received and which must be evaluated for purposes of disqualification before the full extent of actual usage can be known. In the instant situation, you are faced with such a circumstance, except that the passes are now being returned to the donor, and will not be available for any future usage.

While the passes must be considered and reported as gifts, since they were not returned unused within 30 days of receipt as required by statute (Section 82028), they ought to be valued only according to actual usage. That value can be accurately established in this situation.

Because the actual usage, and its value, can be documented, and because the passes have been returned so that no future usage can occur, it is the staff's conclusion that the purposes of the Act are furthered by limiting valuation to the actual usage within the preceding 12 months.

As to each councilmember (or planning commissioner) who has returned his or her pass and who has actually used it to a value of less than \$250 in the 12-month period preceding the decision, disqualification will not be required.

In this special instance, the computations provided by Edwards appear to be a valid basis for determining the value of actual usage.

It should be stressed that this is an unusual and unique circumstance and that application of the advice rendered herein is specifically limited to this situation. It is anticipated

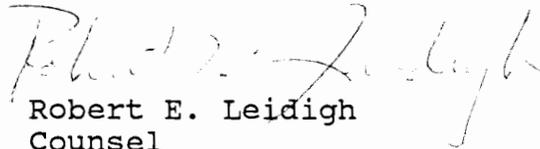
Carol A. Korade
June 16, 1986
Page 5

that the Commission will consider and adopt the remaining gift regulations dealing with passes this Fall. At that time, those regulations will become controlling. However, the specific officials covered here (City Council and Planning Commission) may rely upon this staff advice (Formal Written Advice) in accordance with Section 83114(b) and 2 Cal. Adm. Code Section 18329, until such time as the regulations become effective.

For those officials who elect to retain the passes, the standards enunciated in the Hopkins Opinion must be followed. At this time, based upon the calculations and data provided, we must conclude that the value of the maximum reasonable usage may well exceed \$250. Hence, we cannot advise that disqualification will not be required for officials electing to retain the passes.

If you have further questions regarding this advice, I may be reached at (916) 322-5901.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:plh



CITY OF NEWPORT BEACH

OFFICE OF THE CITY ATTORNEY
P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

(714) 644-3131

May 13, 1986

Fair Political Practices Commission
Legal Department
428 "J" Street, Suite 800
Sacramento, CA 95814

Re: Requested Opinion on Complimentary Passes

Dear Commission Members:

The City of Newport Beach requests an opinion from the Fair Political Practices Commission pertaining to whether a complimentary movie theater pass creates a conflict of interest. Under Government Code Sections 87100, 87103 and your opinion number 77-022, 3 FPCC Opinions 107, if the value of a complimentary ticket or pass is \$250.00 or more, the recipient must disqualify himself or herself from making or participating in the making of any governmental decision which could foreseeably and materially affect the donor in a manner distinguishable from the affect on the public generally.

Edwards Theaters Circuit, Inc. has a ground lease for the maintenance of a two screen theater complex in the City of Newport Beach. For more than ten years, Edwards Theater has customarily sent free movie theater passes to members of the Newport Beach City Council, heads of City departments, and members of various City boards and commissions. This pass is valid for one year and provides admission to the identified City person plus three guests. The pass is valid in the 123 Edwards Theater screens in the State of California and there is no limitation on use. The pass states that it is not transferrable.

Edwards Theater submitted a Use Permit Application to the City of Newport Beach on March 28, 1986 for the construction of two additional theater auditoriums. A copy of this application is attached hereto as Exhibit "A", together with the prior applications to the City of Newport Beach. The City of Newport Beach requests guidance for determining whether the members of the Planning Commission and City Council must disqualify themselves from making or participating in the decision on this Use Permit Application.

May 13, 1986

Fair Political Practices Commission

Page -2-

Edwards theater has provided the City with a detailed analysis which attempts to conduct a study of the fair market value of these theater passes. This analysis is attached hereto as Exhibit "B". This study has compiled data from the Edwards movie theater screens within ten miles of the City of Newport Beach. This ten mile radius is the expected maximum radius of use. Each time the pass recipient uses this movie theater pass, he or she is required to sign in at the movie theater box office. These sign-in sheets were maintained and preserved in the regular course of Edwards Theater business and were scrutinized in order to compile the attached data. The survey indicates the number of recorded times that a City Council Member and Planning Commissioner used the pass in 1985 and from January 1 to April 27 of 1986 in the Edwards theaters within the ten mile radius.

The first question is, is this a sufficient statistical basis to determine the actual yearly use of these theater passes?

Assuming that this is a sufficient statistical data base to determine the number of times that the pass is used on a yearly basis, the next required analysis is the cost or value of the admission. The normal price of admission ranges \$5.50 per adult in popular theaters to \$2.00 in one Costa Mesa theater and \$2.50 per child. These theater passes are issued to adults, but any of the three guests could be children. Starting September, 1985 Edwards theaters started a special admission price of \$2.00 for adults on Tuesday and Wednesday. At some theaters there is a Senior Citizen Discount establishing admission for Senior Citizens at \$2.50. Although this pass is not transferrable and requires that the person was issued the pass be in attendance, that the pass is frequently used by minors without an adult in attendance.

Due to the difficulty in weighing these variables, Edwards Theater has attempted to compute the fair market value of one paid admission by compiling gross box office receipts and dividing it by the number of tickets sold. Edwards Theater concludes that the average admission price for one paid admission in all of Edwards Theaters is \$3.85. The second question is, whether this average cost or value of admission construed to be \$3.85 is a proper statistical figure?

If this provides a sufficient statistical base for number of admissions and rate per admission, the maximum use of the tickets for theaters within a ten mile radius of the City of Newport Beach for the year 1985 is computed by simple multiplication. The maximum use was 58 times multiplied by \$3.85 average paid admission which is \$223.30. The statistics received for 1986 are for 16 weeks and the maximum useage during the 16 weeks is 37 times which computes to an average of 2.3 times per week. If this rate were to continue for the entire year of 1986, this would result in an attendance of 120 times. This 120 figure when multiplied by \$3.85 per visit computes to a maximum valued use of \$460.46. However, Edwards Theater has stated that it is not reasonable to project the first quarter's attendance upon the entire year due to the fact that the academy award nominations occur during this time and attendance is generally higher during this quarter.

If the statistical analysis is proper, the maximum actual use in 1985 was under the \$250.00 figure. If the first quarter of 1986 was projected throughout the entire year, it is possible that the \$250.00 figure could still be exceeded. However, the projection may not be accurate.

In the event that these statistics are not deemed sufficient for computing the maximum actual use, the City of Newport Beach requests guidance as to the criteria for determining the maximum reasonable use. Specifically, the City wishes confirmation that the criteria is:

1. What is the maximum use a person might reasonably make use of such a pass in a year, taking into account the nature of the event and whether the pass is transferrable; and
2. What is the reasonable percentage that a vendor might discount the price of the pass from the price of multiple individual tickets in order to induce the general public to buy a pass.

The City of Newport Beach requests guidance for the application of these, or any other pertinent criteria, to the current problem.

May 13, 1986
Fair Political Practices Commission
Page -4-

Your review and guidance would be greatly appreciated. Please contact me if you have any questions, comments or suggestions. Thank you for your time and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Carol A. Korade". The ink is dark and the handwriting is fluid and legible.

Carol A. Korade
Assistant City Attorney

cc: Harold Davidson, Attorney for Edwards Theaters
Jim Hewicker, Planning Director

EXHIBIT "A"

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH

No. 1527 (Amended)
Application Rec'd by J. Smith
Fee: \$ 688

PLANNING DEPARTMENT
3300 Newport Boulevard
P. O. Box 1768
Newport Beach, CA 92658-8915
(714) 644-3200

Phone 640-4603

Applicant (Print) EDWARDS THEATRES CIRCUIT, INC. Phone (714) 640-4600

Mailing Address 300 Newport Center Drive, Newport Beach, Ca. 92660

Property Owner THE IRVINE COMPANY Phone (714) 720 -2000

Mailing Address 550 Newport Center Drive, Newport Beach, Ca. 92660

Address of Property Involved 300 Newport Center Drive, Newport Beach, California

Purpose of Application (describe fully) Construction of two additional theatre auditoriums (total of 600 seats) adjacent to and to the north side of the existing Edwards Newport Cinemas. The addition would increase the total number of seats to 2375 which equates to 475 parking spaces required with 483 spaces provided.

Zone _____ Present Use _____

Legal Description of Property Involved (if too long, attach separate sheet)
Parcels 1 and 2, in the City of Newport Beach, County of Orange, State of California, as per map filed in Book 15, pae 14, Parcel Maps, in the office of the County Recorder of said County.

OWNER'S AFFIDAVIT

(I) (~~we~~) The Irvine Company depose

and sav that (I am) (~~we~~) the owner(s) of the property(ies) involved in this

City Council Meeting

Council Agenda No. H-2 (a)

CITY OF NEWPORT BEACH

October 3, 1973

TO: City Council

FROM: Department of Community Development

SUBJECT: Off-Site Parking Agreement for the Edwards Newport Cinema (Edwards Theater Circuit, Inc., San Gabriel, Calif.) located at 300 Newport Center Drive East in Newport Center (Use Permit Application No. 1527)

Recommendation

Adopt resolution authorizing the execution of an off-site parking agreement between the City of Newport Beach and Edwards Theaters Circuit, Inc.

Background

At its meeting of April 29, 1971, the Planning Commission unanimously approved Use Permit No. 1527 to permit a five hundred seat addition to the existing 1252 seat Edwards Newport Cinema. It should be mentioned that a one year extension of time to begin the construction of the theater addition was approved by the Planning Commission at its meeting of October 19, 1972. Engineered plans of the theater addition have been submitted to the Building Division, but an additional six month extension of Use Permit No. 1527 will be requested by the applicant at the Planning Commission meeting of November 18, 1973 because construction will not have begun on the site prior to the expiration date (i.e. November 14, 1973).

A condition of approval attached to Use Permit No. 1527 states that the applicant will furnish the City an off-site parking agreement, satisfactory to the City Attorney, providing for the joint use of 100 parking spaces to be available after 5:30 P.M. on weekdays and all day on Saturdays, Sundays, and holidays.

Analysis

Five hundred and twenty four (524) parking spaces presently exist in Block 300 of Newport Center, 200 parking spaces for the exclusive use of Edwards Newport Cinema, and 324 parking spaces in the common parking area (see attached Exhibit "B"). With the exception of the theater, the land uses in Block 300 are comprised of activities that are in operation primarily between 8:00 A.M. and 5:00 P.M. on weekdays. Therefore, the utilization of the common parking area by the Edwards Newport Cinema subsequent to these hours would not create a detrimental condition in the subject location.

The offstreet parking agreement is satisfactory to the City Attorney since it stipulates that the theater shall maintain the required number of parking spaces in the two parking areas designated on Exhibit "B" attached hereto.

Respectfully submitted,

DEPARTMENT OF COMMUNITY DEVELOPMENT
R. V. HOGAN, DIRECTOR

R. V. Hogan

SECTION 20.09.030 OF THE NEWPORT BEACH MUNICIPAL CODE, ENTITLED "HEIGHT LIMITATION ZONES," Planning Commission Amendment 384 placing the R-A District under the 24/28 foot height limitation district. (A report from the Community Development Department was presented.)

Proposed Ordinance No. 1517, being AN ORDINANCE OF THE CITY OF NEWPORT BEACH AMENDING SECTIONS 19.12.010, 19.12.040, 19.12.070 AND 19.16.010 OF THE NEWPORT BEACH MUNICIPAL CODE, PERTAINING TO TENTATIVE AND FINAL SUBDIVISION MAPS, Planning Amendment 384, providing for the same notification and public hearings required for variance and use permit applications. (A report from the Community Development Department was presented.)

Tent &
Final Maps
O-1517

2. The following resolutions were adopted:

Resolution No. 8106 authorizing execution of an off-site parking agreement between the City of Newport Beach, Edwards Theatres Circuit, Inc., and The Irvine Company; in conjunction with Use Permit No. 1527. (A report from the Community Development Department was presented.)

Edwards
Theatres &
Irvine
Company
R-8106

Resolution No. 8107 authorizing the Community Development Director to execute contracts between the City of Newport Beach and certain consultants preparing Environmental Impact Reports for the City (A report from the Community Development Department was presented.)

EIR's
R-8107

Resolution No. 8108 authorizing the execution of an agreement between the City of Newport Beach and the State of California Board of Equalization to incorporate recent changes in State legislation pertaining to sales and use tax to be administered by said Board. (A report from the City Attorney was presented.)

Use Tax
R-8108

Resolution No. 8109 authorizing execution of a supplemental agreement between the City of Newport Beach and the State of California in connection with modification of traffic signal at Hospital Road and Newport Boulevards. (A report from the Public Works Director was presented.)

Traffic
Signal
R-8109

Resolution No. 8110 authorizing execution of an agreement between the City of Newport Beach and Shurman Simpson, Consulting Civil Engineers, for final design of Bayside Drive improvements from Newport Bay to Marguerite Avenue. (A report from the Public Works Director was presented.)

Bayside Dr
Imprvmts
R-8110

OFF-SITE PARKING AGREEMENT

THIS AGREEMENT made and entered into this 9th day of OCTOBER, 1971, by and between the CITY OF NEWPORT BEACH, a municipal corporation, hereinafter referred to as "CITY;" THE IRVINE COMPANY, a West Virginia corporation, hereinafter referred to as "IRVINE;" and EDWARDS THEATRES CIRCUITS, INC., a California corporation, hereinafter referred to as "EDWARDS."

WITNESSETH

WHEREAS, IRVINE is the owner of that certain parcel of real property located at the southeast corner of Newport Center Drive East and San Miguel Drive in the City of Newport Beach, County of Orange, State of California, more particularly described in Exhibit "A" which is attached hereto and is incorporated at this point as if fully set forth herein; and

WHEREAS, EDWARDS is the lessee of that parcel of real property described above; and

WHEREAS, EDWARDS was granted Use Permit No. 1527 by the Planning Commission of the City of Newport Beach on April 29, 1971, to permit a 500-seat addition to the existing Edwards' Newport Cinema with the provision that Edwards obtain approved off-site parking for the vehicles of its customers and business invitees; and

WHEREAS, on October 19, 1972, the Planning Commission of the City of Newport Beach extended Use Permit No. 1527 for an additional year; and

WHEREAS, Section 20.38.040 of the Newport Beach Municipal Code allows off-street parking to be provided on a lot other than the building site on condition that an agreement

between the property owner and the City is excepted, and in setting forth that the off-street parking shall be provided, maintained as a designated parcel of land for the duration of the proposed use or uses on the building site or sites; and

WHEREAS, the existing Edwards Newport Cinema and the proposed expansion thereof require a total of 351 parking spaces; and

WHEREAS, there presently exist approximately 524 parking spaces (200 for the exclusive use of EDWARDS; 324 for joint use) as shown on Exhibit "B" which is attached hereto and by this reference is incorporated as if fully set forth herein;

NOW, THEREFORE, IN CONSIDERATION of the approval by CITY of Use Permit No. 1527, and in partial satisfaction of the conditions attached thereto, the parties hereto agree as follows:

I

For so long as the theater building to be constructed by EDWARDS continues to exist, EDWARDS shall maintain the required number of parking spaces in those locations designated on Exhibit "B" attached hereto.

II

In the event the lease between IRVING and EDWARDS shall be terminated for any reason, resulting in EDWARDS failing to maintain sufficient number of parking spaces, it shall immediately thereafter obtain additional off-site parking spaces satisfactory to and approved by CITY in order to meet the code requirements existing at that time. If EDWARDS is unable to obtain substitute parking facilities, it shall close the theater permitted by Use Permit No. 1527.

III

This agreement shall run with the real property described in Exhibit "A" attached hereto, and shall bind the heirs,

Orange.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first above written.



CITY OF NEWPORT BEACH

Donald A. McInnis
Mayor

APPROVED AS TO FORM

[Signature]
City Attorney

[Signature]
City Clerk

EDWARDS THEATRES CIRCUITS, INC.

By: [Signature]
President

By: [Signature]
Secretary



THE IRVINE COMPANY

By: [Signature]
Vice President

By: [Signature]
Assistant Secretary

STATE OF CALIFORNIA

County of Orange

On [Date], 19[Year], before me, the undersigned, a Notary Public in and for said State, personally appeared DONALD A. McINNIS, known to me to be the Mayor, and [Name], known to me to be the [Name] City Clerk of the municipal corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to a resolution of its City Council.

WITNESS my hand and official seal.

[Signature]
Notary Public

[Signature]
Notary Public in and for said State

June 28, 1971.

Edwards Theatres Circuit Inc,
140 West Valley Blvd.
San Gabriel, California 91776.

Re: Use Permit 1537

Dear Sirs:

The Planning Commission, on its meeting held April 29, 1971, approved your Use Permit application to permit a 50% increase in the existing 135-seat Edwards Theatre. The Use Permit application was approved and the applicant furnished an off site parking agreement to the City Attorney, providing for the availability of 100 parking spaces to be available after 5:00 p.m. on weekdays, and all day on Saturdays, Sundays and holidays. Section 10.18.040 of the Newport Beach Municipal Code requires a written agreement for off site parking, approved by the Council.

This office will be pleased to prepare the required agreement; however, it will be necessary for you to furnish certain information prerequisite to our drawing up the agreement in final form. We will need the following information:

1. The number of off-street parking spaces required to comply with the parking ordinance.
2. A parking plot plan showing the location of the proposed off site parking spaces in relation to the cinema. Said plot plan should be on legal size paper to be attached to the off site parking agreement.
3. The number of on site parking spaces.
4. Legal description of the area of the off site parking as well as the street address.



PARKING-NEWPORT CENTER

	<u>Parking On-Site</u>	<u>Common Area Allotment</u>	<u>Total Parking</u>
BLOCK 300 (324 Stalls Available in Common Area)		324	
EDWARDS THEATRE	200	0 (50)*	200 (250)**
FAZINOTH EQUITIES	0	68	68
G. D. F., INC.	10	27	37
H. S. CLEGG	23	20	43
LEE-OLMSTEAD	0	90	90
MILO'S HEALTH CLUB	0	52 (17)*	52 (69)**
DR. RICH VET. HOSPITAL	3	8	11
THOMAS	0	59	59
	<u>236</u>	<u>324</u>	<u>560</u>

* Figure in parenthesis is parking approved by the Planning Commission on a joint use basis.

** Figure in parenthesis equals the total parking available for this use.

USE PERMIT APPLICATION
CITY OF NEWPORT BEACH

No. 1527

Fee \$150.00

Planning Department
3300 Newport Boulevard
Phone (714) 673-2110

Applicant EDWARDS THEATRES CIRCUIT, INC. Phone (213) 573-9022
(219) 283-5118

Mailing Address 140 West Valley Boulevard, San Gabriel, California 91776

Property Owner THE IRVINE COMPANY Phone (714) 644-3011

Mailing Address 550 Newport Center Drive, Newport Beach, California 92660

Address of Property Involved 300 Newport Center Drive East, Newport Beach,
California 92660

Purpose of Application (describe fully) The Applicant wishes to construct a 500-seat addition to existing 1252-seat Edwards Newport Cinema. The proposed addition would be a separate auditorium, adjoining the existing auditorium on the south side, connecting with the existing foyer. The existing box-office, foyer, and restroom and public areas would service both auditoriums. The existing theatre (1252 seats) requires 251 parking spaces. The addition (500 seats) would require 100 additional spaces, a total of 351 parking spaces. More than the required number of spaces is provided, I. E.: There are 200 spaces controlled by the theatre at the north and adjoining, and the theatre has the non-exclusive use of 315 additional spaces (adjoining and at the rear) by lease arrangements with The Irvine Company; a total of 515 spaces, which is 164 more parking spaces than required.

Zone _____ Present Use Motion picture theatre (high-class).

Legal Description of Property Involved (if too long, attach sheet)

Parcels 1 and 2, in the City of Newport Beach, County of Orange, State of California, as per map filed in Book 15, page 14, Parcel Maps, in the office of the County Recorder of said Cmnty.

Edwards Theatres Circuit, Inc.
by James Edwards Signature of Applicant or Agent Date 4/6/71

[Signature] Signature of Owner Date 4/7/71

XX

DO NOT COMPLETE APPLICATION BELOW THIS LINE

Date Filed 4-9-1971 Fee Pd. 150⁰⁰ Receipt No. 36594
Date 4-29-71 Publication Date 4-15-71
Date _____ Mail Date _____

Conditionally 4-29-71

CITY OF NEWPORT BEACH

MINUTE

APR 29 1971
1:50 PM
1:55 PM
2:00 PM
2:05 PM
2:10 PM

April 29, 1971

5. That the building shall be reinspected and any violations shall be corrected.

Request to permit a 500 seat addition to the existing 1252 seat Edwards Newport Cinema.

Location: Parcels 1 and 2, Block 300, Newport Center, located at 300 Newport Center Drive East, on the easterly side of Newport Center Drive East between Anacapa Drive and San Miguel Drive

Zone: C-0-II

Applicant: Edwards Theatres Circuit, Inc., San Gabriel

Owner: The Irvine Company, Newport Beach

Zoning Administrator Hewicker presented the application to the Commission. A lengthy discussion ensued regarding the off-street parking. Chairman Jakosky noted that he periodically requests a tally count of the parking for the entire area but to date, a full count has not been received.

Mr. Jim Edwards was present and stated that the only facilities open at night when the "joint use" of parking would be used, are the theatre and Milo's Health Club. It was noted that the theatre addition would be operated after 5:30 P.M. except on Saturdays, Sundays and holidays. It was noted that they would show different pictures in each theatre.

After further discussion, the application was approved, subject to the following conditions:

1. That a resubdivision application be filed incorporating the entire theatre site. Said resubdivision shall not require further Planning Commission review.
2. That a legal description describing the site be furnished to the Department of Community Development.
3. The applicant will furnish the City an off-site parking agreement, satisfactory to the City Attorney, providing for the joint use of 100 parking spaces to be available after 5:30 P.M. on weekdays and all day on Saturdays, Sundays and holidays.
4. Matinee showings in both theatres shall not exceed that of any one time except on week ends and holidays.

Item No.
USE PERMIT NO. 1527
APPROVED

Motion
around
All Ayes

X
X

ROLL CALL

April 29, 1971

INDEX

JAKOBY
WATSON
DOSH
ADAMS
BROWN
GLASS
HARTIN

5. Landscape plans, including a watering facilities plan, prepared by a landscape architect, licensed landscape contractor or architect, shall be submitted to and approved by the Director of Community Development. Landscaping shall be separated from paved areas by a raised curb six (6") inches in height.

Request to permit a drive-up auto teller facility at the Newport National Bank.

Location: Portion of Block 93 of Irvine's Subdivision, located at 1666 MacArthur Boulevard, on the southwesterly corner of Pacific View Drive and MacArthur Boulevard (realigned).

Zone: C-O-H

Applicant: Newport National Bank, Newport Beach

Owner: The Irvine Company, Newport Beach

Zoning Administrator Hewicker presented the application to the Commission.

Mr. Paul Ruffing with William P. Ficker, Architect, represented the applicant and answered questions of the Commission.

Following a discussion regarding the driveways, circulation and pedestrian crosswalks, the application was approved, subject to the following conditions:

1. The stacking lanes be striped and furnished with directional markings to the satisfaction of the City Traffic and Parking Engineer.
2. Pedestrian crosswalks shall be marked between the two adjacent parking areas and the sidewalk leading to the main entrance.

Item 7.

USE PERMIT NO. 1528

APPROVED

Motion
Second
All Ayes

X X

Item 8.

Request to permit the sale of alcoholic beverages (beer and wine only) in conjunction with a combination delicatessen/restaurant located within 200 feet of a residential district.

Location: Portion of Lot 2, Tract 4824, located at 1132 Irvine Avenue (Westcliff Plaza).

Zone: C-O-H

USE PERMIT NO. 1529

APPROVED

Planning Commission Meeting April 29, 1971

Item No. 6

CITY OF NEWPORT BEACH

#21

April 28, 1971

TO: Planning Commission
FROM: Community Development Department
SUBJECT: Use Permit Application No. 1527 (Public Hearing)

Request to permit a 500 seat addition to the existing 1252 seat Edwards Newport Cinema.

LOCATION: Parcels 1 and 2, Block 300, Newport Center, located at 300 Newport Center Drive East, on the easterly side of Newport Center Drive East between Anacapa Drive and San Miguel Drive.

ZONE: C-D-H

APPLICANT: Edwards-Theatres Circuit, Inc., San Gabriel

OWNER: The Irvine Company, Newport Beach

Application

This application requests permission to construct and operate a 500 seat theatre adjacent to, and sharing some common facilities with, the existing 1252 seat Edwards Newport Cinema. In accordance with Section 20.08.020 of the Newport Beach Municipal Code, a Use Permit is required for the establishment of such a use.

Background

The present Edwards Newport Cinema was approved by the Planning Commission on March 21, 1968 (Use Permit No. 1347). As a condition of approval, the applicant was required to provide 200 on-site parking spaces and an off-site parking agreement for an additional 50 spaces. The off-site parking agreement was approved by the City Council on December 23, 1968.

Analysis

There are several items of concern to the Staff, and they have been discussed with the applicant and with the Irvine Company. The primary area of concern relates to the availability of off-street parking. Attached is a letter from Mr. Taylor of the Irvine Company (Exhibit "A") indicating that there are 257 parking spaces in Block 300 that would be available for use by the theatre after 5:30 P.M. (approximately) on week-days and all day Saturday, Sunday and holidays. The exact allocation is shown on Exhibit "B", also furnished by the Irvine Company. There are two problems which arise as regards any "joint use" of parking facilities: 1. What happens if Edwards Cinema holds a week-day matinee? and 2. What happens if the present tenants change their use and/or hours of operation? Staff is of the opinion that these problems can be resolved through a condition of approval which would require the

TO: Planning Commission - 2.

applicant to satisfy the off-street parking requirements regardless of any change of use by the existing tenants who have the primary leases on the parking spaces.

Although the plans as submitted indicate an occupancy of 400 +, the application is for a 500 seat addition and this has been confirmed with the applicant. In accordance with the off-street parking ordinance, a 500 seat theatre requires 100 off-street parking spaces.

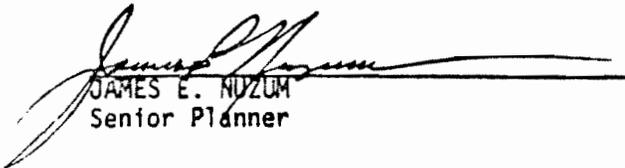
The application indicates that the new theatre will be constructed on parcels 1 and 2 of Block 300, whereas part of the structure will actually project into Block 200. This means that a resubdivision and Parcel Map will be required.

Due to the grade differential between the existing theatre site and that established for Block 200, retaining walls, grading, erosion control, and other landscape features will have to be evaluated by the Staff.

Recommendation

Staff is of the opinion that, with the proper controls, the new theatre will be an attractive addition to Blocks 200 and 300, and approval of Use Permit Application No. 1527 is recommended subject to the following conditions:

1. That a resubdivision application be filed which will incorporate the additional area involved in this proposal into Block 300; and that a new legal description be furnished to the Department of Community Development.
2. The applicant will furnish the City an off-site parking agreement, satisfactory to the City Attorney, providing for the exclusive use of 100 parking spaces to be available after 5:30 P.M. on weekdays and all day on Saturdays, Sundays and holidays.
3. There shall be no matinee showing in more than one theatre at one time, except on weekends and holidays.
4. Landscape plans, including a watering facilities plan, prepared by a landscape architect, licensed landscape contractor or architect, shall be submitted to and approved by the Director of Community Development. Landscaping shall be separated from paved areas by a raised curb six (6") in height.


JAMES E. NUZUM
Senior Planner

JEN/sm

Attachments: Vicinity Map
Plans and Elevations
Letter from Irvine Company 9/15/70
Parking Allocation - Block 300

October 18, 1973

INDEX

ROLL CALL

AGE
BECKLEY
HALEWINKEL
HEATHER
PAPER
ROSENE
SEITZ

Motion
Ayes
Absent

X
X
X
X
X
X
X

Don Chadwick, representative of Matt Brady Film Co., appeared before the Commission and questioned the location of the film store.

There being no others desiring to appear and be heard, the public hearing was closed.

Following discussion, Planning Commission approved the amendment to Use Permit No. 1412, subject to the following conditions:

1. That development be in substantial conformance with the approved plot plans and elevations except for minor modifications which may be approved by the Department of Community Development.
2. That the tenant guest accommodations shall not be rented on a permanent or long-term (i.e., over one month) basis. All conversion work shall be performed as required by the Building Official.
3. The proposed and existing tennis court lighting fixtures shall be adjusted and maintained so as to confine direct rays to the tennis court area.

Item B-15

Request extension of time to permit a five hundred seat addition to the existing 1252 seat Edwards Newport Cinema.

**EXTENSION
USE
PERMIT
1527**

Location: Parcels 1 and 2, Block 300, Newport Center, located at 300 Newport Center Drive East, on the easterly side of Newport Center Drive East between Anacapa Drive and San Miguel Drive.

**APPROVED
CONDITIONALLY**

Zone: C-0-H

Applicant: Edwards Theatres Circuit, Inc., San Gabriel

Owner: The Irvine Company, Newport Beach

Jim Edwards, 3900 Channel Place, Newport Beach, appeared before the Planning Commission and answered questions relative to the request for extension and the parking situation.

COMMISSIONERS

CITY OF NEWPORT BEACH

MINUTES

ROLL CALL

October 18, 1973

INDEX

AGE
BECKLEY
VAZEMINTEL
HEATHER
PARKER
ROSENER
SEELY

Motion
Ayes
Absent

X X
X X
X X
X X
X X

Following discussion, Planning Commission approved extension of Use Permit Application No. 1527, subject to the following conditions:

1. That a resubdivision application be filed incorporating the entire theater site prior to the occupancy of the five hundred seat theater addition. Said resubdivision shall not require further Planning Commission review.
2. That a legal description describing the site be furnished to the Department of Community Development when the resubdivision application is filed.
3. Matinee showings in both theaters shall not exceed 1250 at any one time except on weekends and holidays.
4. Landscaping shall substantially conform with the approved landscape plans. Said landscaping shall be separated from paved areas by a raised curb six inches (6") in height.

Request to extend a Use Permit which allows three off-site directional signs, one entrance sign, and four flags located at the model complex, in connection with the first sale of homes in Northbluffs

Location: Various points on Vista del Oro between Eastbluff Drive and Vista del Sol, in Northbluffs.

Zone: R-4-B-2. R-3-B, C-N-M

Applicant: The Holstein Co., Costa Mesa

Owner: The Irvine Company, Newport Beach

Senior Planner Laycock advised the Planning Commission of existing signs and flags on the site as of 5:00 P.M. this date.

Bob Perryman, with the Holstein Company, appeared before the Planning Commission to answer questions and requested a sales office sign be allowed in addition to other signs requested.

Item B-16
EXTENSION
USE
PERMIT
1545
APPROVED
CONDI-
TIONALLY

CITY OF NEWPORT BEACH

October 13, 1972

TO: Planning Commission
 FROM: Department of Community Development
 SUBJECT: Use Permit Application No. 1527 (Discussion)

Request extension of time to permit a five hundred seat addition to the existing 1252 seat Edwards Newport Cinema

LOCATION: Parcels 1 and 2, Block 300, Newport Center, located at 300 Newport Center Drive East, on the easterly side of Newport Center Drive East between Anacapa Drive and San Miguel Drive.

ZONE: C-0-H

APPLICANT: Edwards Theatres Circuit, Inc., San Gabriel

OWNER: The Irvine Company, Newport Beach

Application

The applicant is requesting an extension of time for the construction of an additional theater adjacent to the existing Edwards Newport Cinema. Section 20.46.090 of the Newport Beach Municipal Code states that any use permit granted in accordance with the terms of this Title "shall be revoked if not used within one and one-half years from the date of approval unless, on approval, the Planning Commission specifies or has specified a different period of time."

Background

The subject use permit was unanimously approved by the Planning Commission at its meeting on April 29, 1971, subject to the five conditions of approval indicated in the attached excerpt of the Planning Commission minutes of April 29, 1971.

The use permit would, therefore, become void on October 29, 1972, unless construction had begun before that date.

Analysis and Recommendation

The applicant has requested that he be permitted an extension of time since actual work cannot begin until further engineering, plan check by the City, bidding, award of bid, and contract documents have been completed." (See attached letter.)

All portions of the attached staff report and the Planning Commission conditions of approval are still applicable. Staff feels that the applicant's proposal will still be an attractive addition to Newport Center and, therefore, recommends that Use Permit No. 1527 be extended for one additional year.

DEPARTMENT OF COMMUNITY DEVELOPMENT
 R. V. HOGAN, Director

William R. Laycock
 W. R. LAYCOCK, Senior Planner

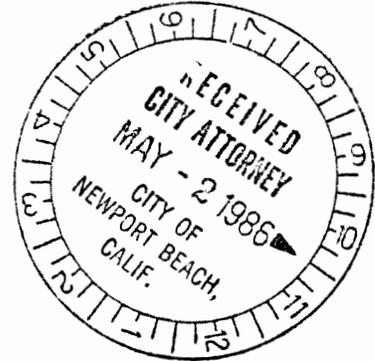
EXHIBIT "B"

LAW OFFICES OF
DAVIDSON, RASMUSSEN & DAVIDSON

5190 CAMPUS DR.
NEWPORT BEACH, CALIFORNIA 92660
(714) 752-0775

May 2, 1986

City Attorney of Newport Beach
Offices of City Attorney
3300 Newport Boulevard
Newport Beach, California 92663



Attention: Carol A. Korade
Assistant City Attorney

Re: Edwards Theatres Circuit, Inc.

Dear Ms. Korade:

This will confirm our prior discussion that the above captioned is the general counsel for Edwards Theatres Circuit, Inc. ("Edwards"). We understand that an issue has arisen as to the reasonable monetary value in U.S. dollars of a theatre pass issued by Edwards to members of the City Council and Planning Commission of the City of Newport Beach, California. The logical beginning point to conduct a study of the fair market value is to ascertain, by review, the number of times during a calendar year, each respective pass is utilized to gain admission. We have caused a review of the "sign-in sheets" to be summarized for the calendar year 1985 and for the period of January through April 27, 1986. Each respective theatre pass expires on December 31, of the calendar year. The sign-in sheets are originated and maintained pursuant to an Edwards policy personnel directive. These sheets are maintained and preserved in the regular course of Edwards business at each theatre within the Circuit. Management personnel are instructed to have all person(s) gaining admittance to be listed opposite the pass number and then request the person presenting the pass to sign opposite this entry. A copy of the results of the Edwards review of the sign-in sheets in a summary form is attached hereto, marked EXHIBIT A, and made a part hereof.

The second factor to be weighed is the cost or value of the admission. The price of admission is influenced in part by the day of the week when the admission takes place. Since September of 1985, Edwards has established a special admission price on Tuesday and Wednesday of each week at \$2.00 for adults. Another factor which effects the value of the admission is the Senior Citizen's Discount. Under the Senior Citizen's Discount, admission for senior citizens is established at \$2.50.

City Attorney of Newport Beach
Carol A. Korade, Assistant City Attorney
May 2, 1986
Page Two

At the other end of the spectrum, minors, 12 years of age and under, are admitted for \$2.50. Edwards finds that the minority admission price very often comes into play in that a pass holder allows minors in his family to use his pass while actually attending himself very few times. The cost or value of admissions is also influenced by the actual theatre attended by the pass holder. Very recently, Edwards raised admission at certain and new, heavily attended theatres to \$5.50 per adults on certain popular features. On the other hand, at the Mesa Theatre in Costa Mesa, one of the theatres included in the EXHIBIT A computation, admission charge for adults is and has been \$2.00.

Because of these important variables, coupled with the difficulty of weighing these variables in order to properly ascertain the reasonable value in monetary terms of admission gained by use of a theatre pass, we asked Edwards to compute, from their records, gross box office receipts divided by the number of tickets sold, the average admission price received for a person paying admission in all of the Edwards Circuit. It should be noted that the theatre pass covers admission to all theatres in the Circuit. Further, admission tickets are required to be numbered, must be strictly accounted for, are reported to the various film distributors from which the pictures shown are obtained, and at all times are subject to audit and verification by such distributors. These figures therefore, are a most reliable and accurate source upon which to establish the true monetary value of an admission. This methodology established that the monetary value of an admission was \$3.85 gross before any deduction or expenses, overhead, or other charges. Attached hereto is EXHIBIT B, a copy of the computations taken from Edwards records which is incorporated herein and a part hereof.

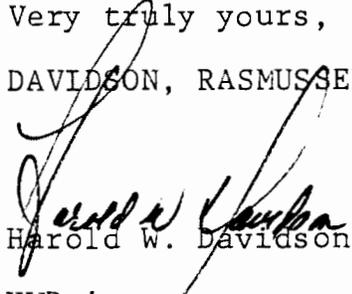
Applying the attendance figures set forth in EXHIBIT A, and the reasonable value in monetary terms of a theatre admission, which is established by the gross admissions received divided by the number of persons paying for admissions, (EXHIBIT B) patiently demonstrates that the reasonable monetary value in U.S. dollars of theatre passes issued by Edwards to members of the City Council and Planning Commission of the City of Newport Beach, did not in the year 1985, nor has not in the year, 1986, equalled \$250.00 or more in value.

City Attorney of Newport Beach
Carol A. Korade, Assistant City Attorney
May 2, 1986
Page Three

Should we be able to supply you with further information, be assured of our cooperation. Thanking you for your professional courtesy.

Very truly yours,

DAVIDSON, RASMUSSEN & DAVIDSON



Harold W. Davidson

HWD:ia
Enclosures

cc: Edwards Theatres Circuit, Inc.

SUMMARY OF ATTENDANCE
EDWARDS THEATRES CIRCUIT, INC.

<u>CITY COUNCIL MEMBER</u>	<u>PASS NUMBER</u>	<u>ATTENDANCE</u>	
		<u>1985</u>	<u>1986</u> (Jan.-Apr.28, 1986)
Phillip Maurer	6180	43	18
Ruth Ellen Plummer	6181	45	08
Evelyn Hart	6183	02	15
Jacklyn Heather	6184	04	00
Donald Strauss	6185	43	12
Bill Agee	6186	20	04
John Cox	6187	56	19

<u>PLANNING COMMISSION</u>	<u>PASS NUMBER</u>	<u>ATTENDANCE</u>	
		<u>1985</u>	<u>1986</u> (Jan.-Apr.28, 1986)
James Person	6188	24	00
Charles Turner	6189	00	00
Rena Kappelnan	6190	09	02
Joan Winburn	6191	30	37
John Kurlander	6192	06	02
Dave Goff	6193	02	00
Patricia Eishenhofer	6194	04	00

FAIR MARKET VALUE OF A PAID ADMISSION

Total Gross Paid \$29,159,789.00
Box Office Admission for Circuit, 1985

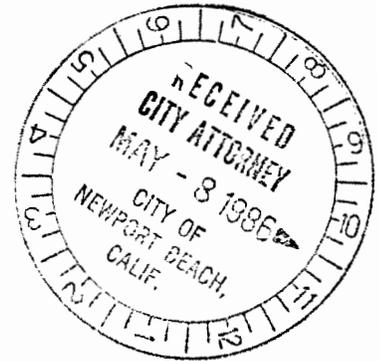
DIVIDED BY

Total Number Paid
Box Office Admission Circuit, 1985 \$7,582,937.00

Fair Market Value of one paid admission \$3.85

EXHIBIT B

LAW OFFICES OF
DAVIDSON, RASMUSSEN & DAVIDSON
5190 CAMPUS DR.
NEWPORT BEACH, CALIFORNIA 92660
(714) 752-0775



City Attorney of Newport Beach
Offices of City Attorney
3300 Newport Boulevard
Newport Beach, California 92660

Attention: Carol A. Korade
Assistant City Attorney

RE: Edwards Theatres Circuit, Inc.

Dear Ms. Korade:

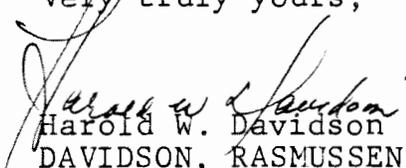
Pursuant to your request, supplementing my letter to you of May 2, 1986, we have caused a review of the use of theatre passes issued to members of the City Council and Planning Commission of the City of Newport Beach, California, to be made of all theatre screens operated by Edwards Theatres Circuit, Inc. ("Edwards") within a radius of approximately ten miles from the Newport City Hall. The theatres so reviewed are the following:

<u>THEATRE</u>	<u>LOCATION</u>
University	Irvine, California
Newport Center Cinema	Newport Beach, California
Lido Theatre	Newport Beach, California
Mesa Theatre	Costa Mesa, California
Harbor Twin Cinema	Costa Mesa, California
Cinema Center	Costa Mesa, California
The Original Cinema	Costa Mesa, California
The Town Center Cinema	Costa Mesa, California
South Coast Plaza Cinema	Costa Mesa, California
Bristol Cinema	Santa Ana, California

A copy of the results of this survey in summary form is attached hereto marked Exhibit A and made a part hereof.

While the additional location should properly be included as our review discloses it was, in fact, utilized by certain pass holders the slight increase is not meaningful so far as a \$250.00 or more yearly valuation in monetary terms is concerned.

Very truly yours,


Harold W. Davidson
DAVIDSON, RASMUSSEN & DAVIDSON

HWD:ia

Enclosure

SUMMARY OF ATTENDANCE
EDWARDS THEATRES CIRCUIT, INC.

<u>CITY COUNCIL MEMBER</u>	<u>PASS NUMBER</u>	<u>ATTENDANCE</u>		(Jan.-Apr.28, 1986)
		<u>1985</u>	<u>1986</u>	
Phillip Maurer	6180	47	24	
Ruth Ellen Plummer	6181	51	12	
Evelyn Hart	6183	02	17	
Jacklyn Heather	6184	04	00	
Donald Strauss	6185	43	14	
Bill Agee	6186	20	06	
John Cox	6187	58	19	

<u>PLANNING COMMISSION</u>	<u>PASS NUMBER</u>	<u>ATTENDANCE</u>		(Jan.-Apr.28, 1986)
		<u>1985</u>	<u>1986</u>	
James Person	6188	32	02	
Charles Turner	6189	00	00	
Rena Kappelnan	6190	09	06	
Joan Winburn	6191	35	37	
John Kurlander	6192	06	02	
Dave Goff	6193	02	00	
Patricia Eishenhofer	6194	04	00	

1986

E

No 006189

Edwards Theatres Circuit, Inc.
Season Complimentary Pass

To (Name) & Three Guests

Signed

President

Please sign on reverse side

We are pleased to present you with this personal pass. It is not transferable, and must be presented by the person to whom it is issued. Not good for certain special engagements. Expires December 31, 1986.

Signature of Pass Holder

We reserve the right to request your signature

LAW OFFICES OF
DAVIDSON, RASMUSSEN & DAVIDSON
5190 CAMPUS DR.
NEWPORT BEACH, CALIFORNIA 92660
(714) 752-0775

May 23, 1986

Carol A. Korade
Assistant City Attorney
Office of the City Attorney
Post Office Box 1768
Newport Beach, California 92658-8915

RE: Edwards Theatres Circuit, Inc.
Your File No. 86-166
Our File No. E0500-232

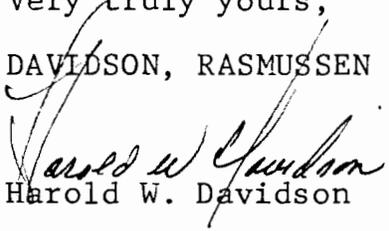
Dear Ms. Korade:

Enclosed herein, please find a copy of a letter dated May 19, 1986, to Honorable Philip Maurer, Mayor of Newport Beach, from Mr. James Edwards, Sr.

Letters have also been sent to the other members of the City and Planning Commission.

Very truly yours,

DAVIDSON, RASMUSSEN & DAVIDSON


Harold W. Davidson

HWD:ia

Enclosure

✓ cc: Robert E. Leidigh, Counsel, Legal Division
California Fair Political Practices Commission

Mr. James Edwards, Sr.
Edwards Theatres Circuit, Inc.

19 May, 1986

Mr. Philip Maurer
Mayor, City of Newport Beach
325 Diamond Avenue
Balboa Island, California 92662

Dear Mayor Maurer:

For the past 17 years it has been my custom to issue a complimentary admittance to Edwards Theatres to members of Newport Beach City Council and Planning Commission; it has always been an honor to me to be able to evidence my respect for your high position in the City of Newport Beach in this manner.

However, because of the Fair Political Practices Act, it may or may not be embarrassing to me should I have a matter to bring before you, and for that reason, and based upon advice from corporate counsel, I am obligated to ask you to please return your pass to me.

I sincerely apologize to you for any inconvenience to you in returning the pass. A self-addressed and stamped envelope is included for your use.

A similar letter is being sent to other members of City Council and Planning Commission, and believe me, my face is red.

Sincerely,

EDWARDS THEATRES CIRCUIT, INC.

By

JAMES EDWARDS SR.

Chairman

JE/ms
Enc

~~4/26/50~~ SM

TELEPHONE ADVICE

Atty: Leitch

Date: 6/6/56

Requestor: Howard Davidson
Newport Beach

Tele: (414) 150-0775

Question: Atty for Edwards Trusts

persons are being returned
people "unintended"

When will we respond?

Advice: Hopefully by end of next week.

Regulations: _____ Act: _____

Opinions: _____ Guide to PRA: _____

Advice Letters: _____

Other: _____



CITY OF NEWPORT BEACH

OFFICE OF THE CITY ATTORNEY
P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

(714) 644-3131

F P R
MAY 15 4 36 PM '86

May 13, 1986

Fair Political Practices Commission
Attention: Bob Leidigh
Legal Department
428 "J" Street, Suite 800
Sacramento, CA 95814

Re: Advise Letter on Complimentary Passes

Dear Mr. Leidigh:

Pursuant to our telephone conversation of this date, the City of Newport Beach would like to request an advice letter from the staff from the Fair Political Practices Commission pertaining to whether a complimentary movie theater pass creates a conflict of interest. A formal opinion is not necessary.

In addition, attached is a revised page 2 of the May 8, 1986 letter. The words "Edwards Theater has provided" was omitted from the first paragraph.

Thank you for your time and attention to this matter and please contact me if you have any questions, comments or suggestions.

Very truly yours,

Carol A. Korade
Assistant City Attorney

CAK/mlh

enclosure



California Fair Political Practices Commission

May 19, 1986

Carol A. Korade
Assistant City Attorney
Office of the City Attorney
P.O. Box 1768
Newport Beach, CA 92658-8915

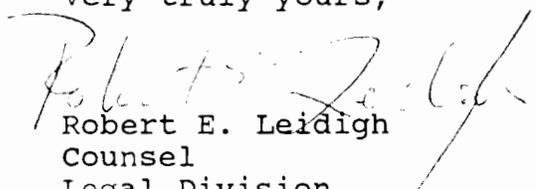
Re: 86-166

Dear Ms. Korade:

Your letter requesting advice under the Political Reform Act has been received on May 15, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Robert E. Leidigh
Counsel
Legal Division

REL:plh

TO: Planning Commission

4. Landscaping shall substantially conform with the approved landscape plans. Said landscaping shall be separated from paved areas by a raised curb six inches (6") in height.

DEPARTMENT OF COMMUNITY DEVELOPMENT
R. V. HOGAN, Director

By *William R. Laycock*
WILLIAM R. LAYCOCK
Senior Planner

WRL/kk

Attachments: Vicinity Map
Excerpt of Planning Commission Minutes of 10/19/72
Letter from Applicant
Letter from Architect

NOTE: Plans and elevations will be on display in Council Chambers

5. Landscape plans, including watering facilities' plan, prepared by a landscape architect, licensed landscape contractor or architect, shall be submitted to and approved by the Director of Community Development. Landscaping shall be separated from paved areas by a raised curb six inches (6") in height.

The use permit would have become void on November 13, 1972 unless construction had begun on or before that date.

At its meeting of October 19, 1972, the Planning Commission unanimously approved a one year extension of Use Permit No. 1527 so that further engineering, plan check by the City, award of bid, and contract documents could be completed, subject to the original five conditions of approval.

The applicant is now requesting an additional six month extension of this application since the bid amounts were "not realistic," and it would take additional time to start actual work on the site (see attached letter from applicant).

ANALYSIS:

A building permit will be issued by the Building Division as soon as minor corrections on the plans have been completed. Most of the conditions of approval have also been met as follows: A resubdivision application will be filed on the project prior to the occupancy of the theater addition (see attached letter from the architect) as required in Condition No. 1; the new legal description describing the site will be furnished to the Department of Community Development when the resubdivision is filed, as required in Condition No. 2; the off-site parking agreement providing for the joint use of 100 parking spaces to the rear of the theater was approved by the City Council at its meeting of October 9, 1973, as required by Condition No. 3; and landscape plans have been approved as required in Condition No. 5.

Staff feels that the applicant's proposal will still be an attractive addition to Newport Center.

ENVIRONMENTAL SIGNIFICANCE:

Section 15070.(C) of the California Environmental Quality Act provides that any project approved prior to December 5, 1972 does not require an EIR.

RECOMMENDATION:

Staff recommends that Use Permit No. 1527 be extended for an additional six months subject to the following conditions:

1. That a resubdivision application be filed incorporating the entire theater site prior to the occupancy of the five hundred seat theater addition. Said resubdivision shall not require further Planning Commission review.
2. That a legal description describing the site be furnished to the Department of Community Development when the resubdivision application is filed.

Patinee showings in both theaters shall not exceed 10 minutes at any one time except on weekends and holidays.

REQUEST TO EXTEND UP 150

Planning Commission Meeting October

Agenda Item No. B-15

CITY OF NEWPORT BEACH

October 12, 1973

TO: PLANNING COMMISSION
FROM: Department of Community Development
SUBJECT: Use Permit Application No. 1527 (Discussion) (Extension)

Request extension of time to permit a five hundred seat addition to the existing 1252 seat Edwards Newport Cinema.

LOCATION: Block 300, located at 300 Newport Center Drive East, on the easterly side of Newport Center Drive East between Anacapa Drive and San Miguel Drive in Newport Center

ZONE: C-O-H

APPLICANT: Edwards Theatres Circuit, Inc., San Gabriel

OWNER: The Irvine Company, Newport Beach

APPLICATION:

The applicant is requesting an extension of time for the construction of an additional theater adjacent to the existing Edwards Newport Cinema. Section 20.46.090 of the Newport Beach Municipal Code states that any use permit granted in accordance with the terms of this Title "shall be revoked if not used within one and one-half years from the date of approval unless, on approval, the Planning Commission specifies or has specified a different period of time."

BACKGROUND:

The subject use permit was unanimously approved by the Planning Commission at its meeting on April 29, 1971, subject to the following conditions:

1. That a resubdivision application be filed incorporating the entire theatre site. Said resubdivision shall not require further Planning Commission review.
2. That a legal description describing the site be furnished to the Community Development Department.
3. The applicant will furnish the City an off-site parking agreement, satisfactory to the City Attorney, providing for the joint use of 100 parking spaces to be available after 5:30 P.M. on weekdays and all day on Saturdays, Sundays and holidays.
4. Matinee showings in both theatres shall not exceed 1:50 at any one time except on weekends and holidays.