

**STATEMENT REGARDING CITY OF ESCONDIDO ACTIONS
APPROVING STIPULATION FOR FINAL JUDGMENT AND PERMANENT
INJUNCTION**

In closed session today, the City Council authorized the City Attorney and special counsel to execute a stipulation for entry of a final judgment in the litigation involving the City's immigration ordinance. The stipulation will make permanent the temporary restraining order which was previously issued by the Court.

While the stipulation and final order are still subject to approval by Judge Houston of the Federal District Court, no further action or proceeding by the City Council, including enforcement, will occur regarding the immigration ordinance.

The City Council adopted Ordinance No. 200638R based on a concern that the rental of housing to illegal aliens in the City of Escondido resulted in a number of problems for the City. Testimony from all sides during the public hearings leading up to the adoption of the Ordinance revealed serious problems with illegal immigration. Even the Plaintiffs who challenged the Ordinance in federal court noted that tenants in Escondido who did not have documentation of legal status faced a number of challenges in reporting mistreatment and problems in their housing units.

In adopting the Ordinance, the City Council was attempting to deal with serious problems but the litigation which followed quickly revealed further problems, including the lack of an assured federal database to determine the status of individuals for housing purposes.

Prior to making decisions about the City's Ordinance, Judge Houston gave all parties a full and fair opportunity to argue the merits of the application for the Temporary Restraining Order. His

approach at the hearing, his oral comments and written ruling on the TRO application and the ordinance were thorough and thoughtful. While the City does not agree with several of Judge Houston's preliminary rulings including those on the City Manager's Interpretation Memorandum the City does not believe that the current legal environment is the best or the most cost effective manner to address the problem of illegal aliens in Escondido.

Continuing the present policy approach would be unnecessarily costly to the City, and unnecessarily consume the Court's time, when other approaches could provide the answers to the problems more efficiently. Addressing each individual basis for Judge Houston's concerns and efficiently addressing the issues raised in the litigation would require many months of effort by the City staff and its counsel, and additional written input and perhaps testimony from federal officials. The City has also found that it needs additional input as to how it would utilize and implement the Systematic Alien Verification for Entitlements ("SAVE") program, including the procedures for processing an application for federal approval of the City's participation in the program.

Regardless of who would have ultimately won the lawsuit in Judge Houston's courtroom in San Diego, the legal challenge to the City's ordinance would then face an uncertain environment in the Ninth Circuit Court of Appeals and then perhaps the United States Supreme Court in litigation stretching over several years. The stakes in such litigation, in addition to the ordinance itself, involve potential attorney's fees in excess of \$1,000,000 to the City, as well as a potential liability for plaintiff's attorney's fees of an equivalent or greater amount. On the other hand, City staff has planned several specific steps to address the serious problems that exist with overcrowding, unsafe and unsanitary conditions in the City's rental housing stock, and they will

be coming forward with several proposals and requests for direction before the City Council in conjunction with the Council's regular work program session in early January. The City may also consider at upcoming public meetings a proposed resolution or staff direction requesting that Congress and the federal government provide information, guidance and confirmation on the issues concerning the SAVE program, other programs for verification of immigration status, and the ability of the City and City staff to assist in the enforcement of our federal immigration laws. After this process, which will include hearings before the City Council and input from interested parties, it may be that the City staff and City Council will consider new ordinances that address these concerns

It should be emphasized that abandoning the present litigation and embarking on new efforts to solve these problems leaves both the Council and individual Council members with complete future legislative discretion. In addition, the decisions made with respect to this Ordinance and this litigation have no binding effect whatsoever on any other litigation or measures which may be pending in other parts of the country.