



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Peter Jensen

**SUBJECT: DEED CORRECTION FOR  
750 LEIGH AVENUE**

**DATE:** September 28, 2005

Approved

*Kay Winer*

Date

*10/3/05*

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

Adoption of a resolution authorizing the Director of General Services to prepare, execute and record a corrected deed to Richard Andrew Saso II and Kristi Saso for property located at 750 Leigh Avenue.

## BACKGROUND

In 1985 the City of San Jose entered into a 50-year ground lease with John Magistad for a parcel of City-owned property, comprising approximately 25,200 square feet, at the corner of Kingman and Leigh Avenues. The lease specified that a ten-unit apartment complex be constructed on the site. An erroneous legal description, Exhibit "A", attached to the lease, described the size of the site as 19,000 square feet.

In February of 1998, Mr. Magistad purchased the underlying fee for this leasehold property from the City. The legal description used for the transfer of ownership was taken from the lease agreement and thus erroneously conveyed only 19,000 square feet of the approximately 25,200 square feet parcel. The Council Memo for the sale correctly described the size of the parcel.

Subsequently, in March of 1999 Mr. Magistad sold the apartment complex to Richard Andrew Saso II and Kristi Saso utilizing the incorrect legal description from the City's Grant Deed to Mr. Magistad.

## ANALYSIS

The grant deed's inaccurate legal description led to the appearance of an encroachment of the apartment complex onto the adjacent City-owned property. This discrepancy was discovered by a City survey crew while surveying the adjacent City-owned property as part of a proposed capital project.

General Services staff researched the files and previous council actions which confirm the City's intent to lease and then sell the entire 25,200 square foot parcel to Mr. Magistad, based on the references to that size included in the body of the original lease and the 1998 council memo.

Staff recommends correcting the grant deed so as to clear title to a property presently in private hands.

**OUTCOME**

Approval of this item will result in the issuance of a corrected deed.

**PUBLIC OUTREACH**

Not applicable.

**COORDINATION**

This item has been coordinated with the Department of Public Works. The City Attorney's Office has prepared the corrected deed.

**COST IMPLICATIONS**

There are no new costs associated with this item.

**BUDGET REFERENCE**

N/A

**CEQA**

Not a Project



PETER JENSEN  
Interim Director of General Services