

OFFICE OF THE CITY ATTORNEY

OPINION NO. 91-06

**TO:** Arlene Stevens, Vice Mayor  
**FROM:** Stephen M. Kemp, City Attorney  
**DATE:** September 11, 1991  
**SUBJECT:** Application of Intent and Precedents to Council

---

QUESTION:

You have inquired as to the application of the concept of legislative intent to Council action.

OPINION:

Generally, there are two positions on legislative intent. One position holds that the intent of the authors of the Constitution, or in this case the City Charter, governs its application. The other position holds that the provisions of the Charter should be applied to each situation as they arise, taking into account current problems and practices.

Both positions are recognized in the law. Frequently, courts and legislative bodies may move from one position to the other. There are no legal mandates that Council adopt a particular position on legislative intent.

Most jurisdictions apply the rule of "stare decisis", which is Latin "for to abide by or adhere to decided cases." Courts apply this rule to stabilize the law and promote a policy that legal decisions should not depend on the individuals involved. This rule does not apply to legislative bodies such as city councils.

It is recognized the citizens' elected officials must be free to change their positions as they deem necessary. The political process is designed to reflect the popular will. Therefore, the concerns which courts have are not applicable in the legislative process.

Opinion No. 91-06  
Page 2

In conclusion, a City Council member is free to give as much or as little weight to the intent of the framers of the Charter as they deem appropriate. In making decisions, Council is not bound by prior precedents, but is free to modify them as it chooses.

If you should have any questions, please do not hesitate to contact me.

SMK:ei

cc: Ken C. Forgia, Mayor  
City Council

STEVEK\OPINION\91-06