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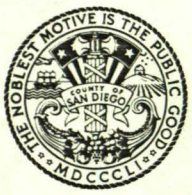

County of San Diego

OFFICE OF
COUNTY COUNSEL

LLOYD M. HARMON, JR.
COUNTY COUNSEL

JOSEPH KASE, JR.
ASSISTANT COUNTY COUNSEL

355 COUNTY ADMINISTRATION CENTER
SAN DIEGO, CALIFORNIA 92101-2469
(619) 236-3651

CHIEF DEPUTY COUNTY COUNSEL
ANTHONY ALBERS
HOWARD P. BRODY

DEPUTIES

RALPH E. SHADWELL
LEWIS P. ZOLLINGER
D. RICHARD RUDOLF
WILLIAM D. SMITH
PHILLIP L. KOSSY
ARLENE PRATER
CHARLES A. VIVIANO
ROBERT B. HUTCHINS
ARNE HANSEN
LEONARD W. POLLARD II
BRUCE W. BEACH
ELLEN R. MICHAELS
WILLIAM W. TAYLOR
ENRIQUE L. MUÑOZ
SANDRA J. BROWER
GREER D. KNOPP
PAUL N. BRUCE
WILLIAM A. CALDERS
ELIZABETH C. ELDRIDGE
NATHAN C. NORTHUP
THOMAS LUNDMARK
BARBARA B. BAIRD
DESIREE A. ANKETELL
SUSAN J. BOYLE
CHRISTOPHER R. KELLEY

February 11, 1985

Honorable Board of Supervisors
County of San Diego
335 County Administration Center
San Diego, California 92101

Honorable Board:

Re: Political Reform Act: Disqualification Due to Political Contributions (Gov. Code, § 84308)

This is a supplement to our earlier letter dated March 28, 1984, regarding Disqualification Due to Conflict of Interest. In that letter we discussed the Political Reform Act of 1974 (Gov. Code § 87100 et seq.) and, as pertinent to this letter, disqualification due to political contributions under Government Code Section 84308 (see letter dated Mar. 28, 1984 at Part 1B). Government Code Section 84308 has been amended, effective September 30, 1984. The purpose of this supplement is to advise you of the effect of that amendment.

Under Government Code Section 84308, as it read prior to September 30, 1984, an elected or appointed officer, or alternate, or candidate for office was prohibited from accepting campaign contributions of $250 or more, from persons who had applications for licenses, permits, and other similar documents pending before any quasi-judicial body of which the officer was a member.

The amendment of Government Code Section 84308 deletes the term "quasi-judicial body" and applies the provisions of the prohibition to all state and local government agency proceedings involving a license, permit or entitlement for use. The term "license, permit or entitlement for use" is defined to mean "all business, professional, trade and land use licenses and permits

and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises". However, this provision excludes the Legislature, the courts, city councils and board of supervisors unless the person who is a member of an exempted agency is acting as a voting member of another agency. Thus, a board member who serves on LAFCO, the Coastal Commission or other governing board may now be subject to disqualification under Government Code Section 94308. On the other hand, a board member while serving as a member of the board of supervisors (or as a member of a governing board where the board of superivosrs as a group serves the governing board) is not disqualified. As you will note, the effect of the 1984 amendment may create a situation where a board member may properly participate in a hearing coming before the board of supervisors; but is disqualified in hearing the same matter if it comes before LAFCO.

If you have any questions, please contact County Counsel.

Yours very truly,

LLOYD M. HARMON, JR., County Counsel

LMH:dl