

MEMORANDUM OF LAW

DATE: March 30, 1987

TO: Abbe Wolfsheimer, Councilmember District 1
FROM: City Attorney
SUBJECT: Lessees of City Property as Appointees to City
Board or Commission

You recently asked for a response by March 30 to a general inquiry on whether or not a lessee of City property can be appointed to a City board or commission. As you are aware from the introduction to our conflict of interest memorandums, conflict questions can only be answered based on specific fact situations applied to the specific rules of conflict of interest laws.

With the above caveat in mind, we believe we can give you a general response to assist you. No specific prohibition exists to appointments based solely on status as a City lessee. However, depending on the financial interests involved in such a lease, significant disabilities could occur as to such an appointee's duties on a board or a commission. The Political Reform Act (California Government Code section 81000 et seq.) specifically prohibits public officials (which include members of boards or commissions, California Government Code sections 82041; 82048) from participating in any governmental decision in which he or she has a financial interest. California Government Code section 87100. Further our own Council Policy 000-4 prohibits:

First: No elected official, officer, appointee or employee of The City of San Diego shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence or judgment or action in the performance of such duties.

Emphasis added.

Hence you can readily appreciate the potential disabilities faced by an appointee holding a City lease. We trust this general advice is helpful and stand ready to respond to any specific fact situation.

JOHN W. WITT, City Attorney

By

Ted Bromfield

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ML-87-30

Chief Deputy City Attorney