

MEMORANDUM OF LAW

DATE: July 21, 1988

TO: Maureen A. Stapleton, Deputy City Manager
FROM: City Attorney
SUBJECT: Mass Mailings Signed by Elected Official

Your memorandum of July 11, 1988 to John Witt has been referred to me for response. You ask whether Proposition 73 prohibits Councilmember McColl from signing a letter printed on councilmember stationery intended to be mailed to approximately 3,000 business improvement district (BID) members. You ask the question because of language appearing in Private Advice Letter A-88-220 issued by the Fair Political Practices Commission (FPPC) dated June 16, 1988 interpreting Proposition 73, a copy of which you attached.

We agree with you that the language you quoted from the June 16 FPPC Private Advice Letter appears to prohibit a council-member from being the signator on a letter of this type. This prohibition has since been clarified by the FPPC in a more recent Private Advice Letter (No. A-88-220) dated July 1, 1988, a copy of which is attached. In particular a "mass mailing" featuring an elected official or containing references to elected officials on other than standard agency letterhead, logotype or roster may not be distributed at public expense. This is in keeping with prior FPPC regulation 18901 (2 California Administrative Code 18901) which previously applied only to state officials and which by this private advice letter now applies to local government officials. A copy of regulation 18901 is also attached.

The FPPC is scheduled to hold a public hearing on July 26th to consider adoption of an emergency regulation interpreting Proposition 73. Until that regulation is adopted, these private advice letters and regulation 18901 provide the only guidance available to date on how the FPPC interprets Proposition 73.

In light of these guidelines, we recommend that the letter to the 3,000 BID members not be sent on the Councilmember's stationery or signed by her. Instead, we recommend that the letter be sent on standard city letterhead with your signature as Deputy City Manager.

If you have further questions regarding Proposition 73, please do not hesitate to ask.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:mb:930.62(x043.2)

Attachments

ML-88-70