

DATE: October 5, 1989

TO: Benjamin F. Dillingham, III, Chief of Staff
to Mayor Maureen O'Connor
FROM: City Attorney
SUBJECT: Mayor's Signature on Official Documents as
Possible Conflict of Interest

Your memorandum of September 15, 1989, has been referred to me for response. You inquire whether the Mayor's signing of official documents which were brought into existence without her participation, but which may benefit her financially, constitute a prohibited conflict of interest.

The inquiry came about because of recent news reports about Los Angeles Mayor Tom Bradley having signed two zoning changes that benefited property developments in which a savings and loan association had interests. Mayor Bradley allegedly had an economic interest in that savings and loan association and the newspaper article implied that Mayor Bradley had a conflict of interest which would preclude him from signing the documents. There are no facts in the newspaper article indicating whether Mayor Bradley signed those documents in his ministerial or discretionary capacity.

As you correctly point out in the memorandum, there is a distinct difference between the Mayor signing a document in her ministerial capacity and participating in a discretionary vote leading to the creation of that document. The Fair Political Practices Commission (FPPC) recognizes this distinction in its rules defining the phrase "Public Official Making, or Participating in Making a Governmental Decision" within the meaning of Government Code section 87100. 2 California Code of Regulations 18700 (copy attached). Under this regulation, "making or participating in making a governmental decision" does not include "actions of public officials which are solely ministerial, secretarial, manual or clerical." 2 California Code of Regulations 18700(d)(1).

We conclude that, assuming the Mayor does not participate in the creation of a document by discretionary action in which she has a prohibited financial conflict of interest, she may continue to sign documents in her ministerial capacity without violation of the Political Reform Act.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:jrl:048(x043.2)

Attachment

ML-89-98