

MEMORANDUM OF LAW

DATE: August 16, 1991

TO: Susan Swanson, Paramedic Coordinator, Fire Department

FROM: City Attorney

SUBJECT: Ambulance Rate Regulation

You sent a memorandum to this office requesting an opinion on whether there is a legal basis for the City to regulate rates charged by basic life support providers.

California law specifically allows cities to provide ambulance services to their residents. California Government Code section 38794, Contracts for ambulance service, provides "the legislative body of a city may contract for ambulance service to serve the residents of the city as convenience requires." That statute "affirmatively authorizes cities to provide ambulance services to their residents." *Springs Ambulance Service v. City of Rancho Mirage*, 745 F.2d 1270, 1273 (9th Cir. 1984).

Although no court has dealt primarily with the subject of regulation of ambulance rates, the court in *Springs Ambulance Service*, 745 F.2d at 1273-74 (in which a local agency provided emergency ambulance services to its residents, but private companies continued to compete for non-emergency services), held that

whereas statutory provision for public emergency ambulance service reasonably may contemplate exclusion of private ambulance services, it does not necessarily follow that such an authorization also confers the power to dictate charges for private ambulance services when they are sought Neither Government Code section 38794, nor any other statute cited by appellants, would appear to authorize interference with competition by setting uniform maximum rates.

In other words, a city could not set rates for providers not under contract with the city, but by inference, a city could set rates for agencies with which it had an agreement.

In a similar case, *Gold Cross Ambulance & Transfer v. City of Kansas City*, 705 F.2d 1005 (8th Cir. 1983) (where a local agency provided both emergency and non-emergency ambulance service to its residents), the court stated that "the operator is paid only the contractual sum and this payment is not conditioned on the collection of user fees."

Emphasis added. Implicit in this language is the assumption that the rates charged by the service providers are memorialized in the contract between the agency and the ambulance service.

Our conclusion is that there is authority for The City of San Diego to regulate rates charged by ambulance companies that contract with the City, or at the very least, to require that acceptable rates be part of any agreement with the service provider.

Please let us know if we may assist you further on this question. In addition, we want to thank you for your patience. As of August 5th, additional personnel have joined our division to be more responsive to the growing needs of the various City departments. Deputy City Attorney Elmer Heap will be assisting the Fire Department and the Paramedics with their future legal issues.

JOHN W. WITT, City Attorney

By

Mary Kay Jackson

Deputy City Attorney

MKJ:mb:502.6(x043.2)

cc Maureen Stapleton

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Elmer L. Heap, Jr.

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