


**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: October 1, 2024

TO: Honorable Members of the Rules Committee

FROM: City Attorney Mara W. Elliott 

SUBJECT: Amendments to the Municipal Code Regarding Administrative Fines Assessed by the San Diego Ethics Commission

On September 20, 2023, I issued a memorandum proposing ethical reforms intended to strengthen the City's governance and to build the public's trust in its elected officials. MS-2023-8 (Sept. 20, 2023). My proposal included amendments to the San Diego Charter and the San Diego Municipal Code that would fortify the independence of the San Diego Ethics Commission and provide that body with the power it needs to gain compliance with government ethics laws. Specifically, I wrote: "...other enforcement improvements are necessary, such as fortified subpoena power and increased penalties for ethical violations. The Ethics Commission can only assess up to \$5,000, even for egregious misconduct, which is not enough to deter future misconduct. Developer Midway Rising, for instance, which received a multi-billion-dollar development deal from the City, was fined just \$5,000 for failing to file lobbying disclosures for three reporting periods. In San Diego, low penalties are a negligible cost of doing business."

As the City's attorney, I support the Ethics Commission's proposal to increase the fines it may assess, and I urge the Rules Committee to do the same. As explained in the staff report that accompanies this item, the fines the Ethics Commission can impose has not increased since the commission was created in 2002. This is woefully out of date compared to other Ethics Commissions throughout the State of California. Furthermore, the Ethics Commission has not had the ability to increase fines through a multiplier such as a treble damages provision. This significantly weakens the ability of the Ethics Commission to gain compliance by those it regulates. The proposed amendments will allow the Ethics Commission to impose a fine in an enforcement matter of either: (a) up to \$15,000 per violation; or (b) up to three times the amount the person or entity failed to properly report or unlawfully contributed, expended, gave, or received, among other improvements. These amendments will significantly improve the Commission's ability to do its job while deterring misconduct.

MWE:sm
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