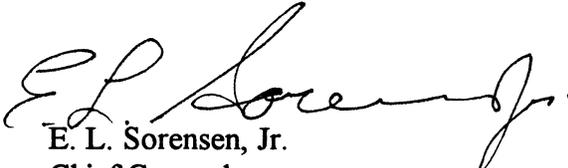


Memorandum

To : Mr. Steven Kamp
Legal Counsel to Board Member Brad Sherman

Date: June 6, 1995

From : 
E. L. Sorensen, Jr.
Chief Counsel

Subject: **CONTRIBUTION DISCLOSURE OPINION 95-8**
Contact by one Board Member causes consent matter to become adjudicatory with respect to all Board Members

QUESTION PRESENTED:

Does an otherwise non-adjudicatory matter become adjudicatory with respect to all Board Members simply because one Board Member has contacted the staff or a party, or otherwise unilaterally acted in a fashion so as to be considered to have "contacted" the staff or a party as provided in Government Code section 15626(h)(5)?

ANSWER:

A contact by one Board Member causes a consent matter to become adjudicatory with respect to all Board Members.

ANALYSIS:

Government Code section 15626(h)(5) defines the term "adjudicatory proceeding pending before the board" to mean "a matter for adjudication that has been scheduled and appears as an item on a meeting notice of the Board as required by Section 11125 as a contested matter for administrative hearing before the board members. A consent calendar matter is not included unless the matter has previously appeared on the calendar as a nonconsent item, or has been removed from the consent calendar for separate discussion and vote, or the item is one about which the member has previously contacted the staff or a party."

We are of the opinion that when a matter that has previously been considered a "consent" item is included in the definition of an adjudicatory proceeding because of the occurrence of one or more of

Mr. Steven Kamp

June 6, 1995

Page 2

the events cited in section 15626(h)(5), the matter becomes adjudicatory with respect to all the Board Members because there is only one matter (either consent or adjudicatory) pending before the Board and the same matter cannot be considered consent by one member and adjudicatory by another.

ELS:MCA:wk

cdo95-8

cc: Mr. Burton W. Oliver
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