

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

June 6, 1985

Clark H. Alsop
Deputy County Counsel
County of San Bernardino
County Government Center
385 North Arrowhead Avenue
San Bernardino, CA 92415-0140

Re: Your Request for Advice
Our File No. A-85-081

Dear Mr. Alsop:

I apologize for any inconvenience our delay in answering your letter may have caused you. In response to your questions, I enclose a copy of an advice letter to Donald Fallon of the Santa Clara County Counsel's Office (A-85-050) also sent this date.

If you have further questions, please feel free to contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Diane Mauva Fishburn".

Diane Mauva Fishburn
Counsel
Legal Division

DMF:plh
Enclosure

ALAN K. MARKS
County Counsel

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April 3, 1985

FAIR POLITICAL PRACTICES COMMISSION
P. O. Box 807
1100 K Street Building
Sacramento, CA 95814

Attention: Ms. Barbara A. Milman, Chief
Legal Division

RE: ~~Chapter 1681 (AB 2992),~~
Statutes of 1984

Dear Ms. Milman:

This letter is sent to request that you inform us as to the Fair Political Practices Commission's determination as to whether or not all of the powers of a Local Agency Formation Commission are subject to the requirements of Government Code § 84308 as amended by Chapter 1681 (AB 2992), Statutes of 1984. This concern arises from the fact that while a Local Agency Formation Commission is an "Agency" as that term is used in Government Code § 84308, the Agency's decisions rarely involve the issuance of a "License, permit or other entitlement for use" as that term is used in Government Code § 84308.

Government Code § 84308(a)(5) defines "License, permit or other entitlement for use" as follows:

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

April 3, 1985

Government Code § 54790(a)(3) provides in pertinent part that:

"A commission shall not impose any conditions which would directly regulate land use, property development or subdivision requirements."
Emphasis added.

LAFCO does not issue any business, professional or trade licenses or permits. Similarly, LAFCO does not issue franchises. LAFCO does not issue "entitlements for use" as that term is commonly understood because formations, incorporations, annexations and other changes of organization approved by LAFCO must be acted upon by a conducting authority which is another legislative body, subject to various public protest provisions and elections requirements. We believe that LAFCO may enter certain contracts which are subject to the requirements of Government Code § 84308.

Your response to our request will provide assistance to us as well as others who have been concerned with the status of Local Agency Formation Commissions under § 84308. Thank you for your assistance in this matter.

Very truly yours,

ALAN K. MARKS
County Counsel



CLARK H. ALSOP
Deputy County Counsel

CHA:md

State of California



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April 15, 1985

Clark H. Alsop
Deputy County Counsel
County Government Center
385 North Arrowhead Avenue
San Bernardino, CA 92415-0140

Re: A-85-081

Dear Mr. Alsop:

Your letter requesting advice under the Political Reform Act has been referred to Diane Fishburn, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

Barbara A. Milman

Barbara A. Milman
General Counsel

BAM:plh