



California Fair Political Practices Commission

October 14, 1986

Bernard Teitelbaum
Capital Advocates, Inc.
1127 - 11th Street, Suite 950
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-86-277

Dear Mr. Teitelbaum:

Thank you for your letter requesting advice concerning your duties under the lobbying provisions of the Political Reform Act.^{1/} This letter confirms the telephone advice I provided to you on September 16, 1986.

QUESTION

Must your lobbying firm registration statement include the name of a new client whom you have agreed to represent before the Coastal Commission for the purpose of obtaining an amendment to a local coastal program adopted pursuant to Section 30170(f) or 30171 of the Public Resources Code?

CONCLUSION

Proceedings to amend local coastal programs are quasi-judicial, rather than quasi-legislative. Therefore, you would not be lobbying if you represent the new client before the Coastal Commission for the purpose of obtaining an amendment to a local coastal program. Accordingly, your registration statement should not be amended to include the name of your new client.

FACTS

You are the president of Capital Advocates, Inc., a registered lobbying firm. A potential client has asked you to appear before the Coastal Commission to seek an amendment to the local coastal program. The local coastal program applies to

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

a specific area in the City of Carlsbad and was adopted pursuant to Section 30170(f) or 30171 of the Public Resources Code. This local coastal program was adopted by the Coastal Commission. The City of Carlsbad must adopt zoning ordinances and other "implementing actions," but has not yet adopted all such implementing actions. Accordingly, the Coastal Commission is authorized to amend the local coastal program upon request of the owner of property subject to the program. Sections 30170(f) and 30171, Pub. Res. Code.

The Coastal Commission's authority with regard to this particular local coastal program is unusual. Generally, the local coastal plan for a particular area is prepared by the local government which has jurisdiction over that area. Section 30500, Pub. Res. Code. Amendments to the local coastal program are made by the local government, but take effect only after certification by the Coastal Commission. Section 30514, Pub. Res. Code. However, with regard to the local coastal program in question, the Coastal Commission is authorized to make amendments until the City of Carlsbad has adopted all zoning ordinances and other implementing actions contained in the program. Sections 30170(f) and 30171, Pub. Res. Code.

ANALYSIS

Section 86100(b) requires each lobbying firm to register with the Secretary of State. On its registration statement, a lobbying firm must list each person with whom the firm contracts to provide lobbying services. Section 87104(d). If a lobbying firm contracts to provide lobbying services for a new client, the lobbying firm must amend its registration statement to add that new client before providing lobbying services for that client. Section 86107(a). Therefore, if your activities in connection with the local coastal program amendment are considered lobbying services, you must amend your registration statement to include your new client prior to lobbying on behalf of that client.

A lobbyist in a lobbying firm provides lobbying services when he or she engages in direct communication with an elected state officer, legislative official or state agency official for the purpose of influencing legislative or administrative action. Section 82039; Regulation 18239.^{2/} "Influencing

^{2/} Commission regulations appear at 2 California Administrative Code Sections 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means. Section 82032. We must focus on the meaning of "administrative action" to determine whether representing your new client before the Coastal Commission for the purpose of obtaining a local coastal program amendment would be considered lobbying.

"Administrative action" is defined in Section 82002 as follows:

"Administrative action" means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 4.5 of Division 3 of Title 2 of the Government Code (beginning with Section 11371).

Therefore, a lobbyist provides lobbying services when he or she represents a client in a quasi-legislative proceeding before an administrative agency. Regulation 18202 provides that the following proceedings are not quasi-legislative:

(1) A proceeding to determine the rights or duties of a person under existing laws, regulations or policies.

(2) A proceeding involving the issuance, amendment or revocation of a permit or license.

(3) A proceeding to enforce compliance with existing law or to impose sanctions for violations of existing law.

(4) A proceeding at which an action is taken involving the purchase or sale of property, goods or services by such agency.

(5) A proceeding at which an action is taken which is ministerial in nature.

(6) A proceeding at which an action is taken awarding a grant or contract.

(7) A proceeding involving the issuance of a legal opinion.

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Amendment of a local coastal program affects the right of a specific party or parties to use their land in a particular manner. Therefore, we conclude that the proceeding is similar to a permit or licensing proceeding. Accordingly, the proceeding is not quasi-legislative for purposes of the Political Reform Act. Regulation 18202(a)(2). The fact that the local coastal program in question was adopted by the Coastal Commission, and would be amended by the Coastal Commission, rather than the City of Carlsbad, does not change our conclusion.

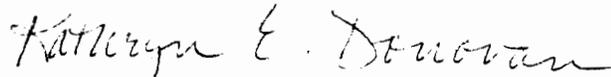
We have discussed this conclusion with Ralph Faust, General Counsel for the Coastal Commission. He stated that the Coastal Commission regards local coastal program amendments as quasi-judicial, not quasi-legislative, proceedings. He further stated that the direct involvement of the Coastal Commission in these amendments in areas subject to Section 30170(f) or 30171 of the Public Resources Code does not change the quasi-judicial nature of the proceeding.

We conclude that the proceedings in question are quasi-judicial, not quasi-legislative, proceedings. Therefore, you would not be lobbying if you represent a new client before the Coastal Commission for the purpose of obtaining an amendment to a local coastal program. Accordingly, it is not necessary for you to amend your registration statement to include the new client.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh
cc: Ralph Faust

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September 16, 1986

Cathy Donovan
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Dear Ms. Donovan:

This letter is to confirm our conversation of September 16, 1986 regarding my inquiry about the need to register as a lobbyist for activities before the California Coastal Commission.

It is my understanding that your response to my inquiry, after discussions between Mr. Faust of the Coastal Commission legal staff, was that advocacy activities with the Coastal Commission and staff to amend "Mello I and II" local coastal plans or permits are not quasi-legislative activities and do not require lobbyist registration pursuant to the Political Reform Act.

If the above is your understanding, would you please be kind enough to confirm that to me in writing at your earliest convenience?

Cordially,



Bernard Teitelbaum
President

BT:ph