

June 6, 1989

Lloyd M. Harmon, Jr.
County Counsel
County of San Diego
355 County Administration Center
1600 Pacific Highway
San Diego, CA 92101-2469

Re: Your Petition to Amend Regulation
18726.7
Our File No. A-89-337

Dear Mr. Harmon:

Your petition to amend Regulation 18726.7 of Title 2, Division 6 of the California Code of Regulations was received on May 30, 1989 by the Fair Political Practices Commission. If you have any questions about your petition, you may contact Jeevan Ahuja, an attorney in the Legal Division, directly at (916) 322-5901.

Your petition will be reviewed and, if deemed appropriate, notice of the proposed amendment will be given and the matter set for hearing for consideration of its adoption by the Commission. If your petition for amendment of Regulation 18726.7 is denied, a response will be mailed to you within 30 days indicating our reasons for such denial. (Government Code Section 11347.1.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Sincerely

Kathryn E. Donovan
General Counsel

By: Scott Hallabrin
Counsel, Legal Division

KED/SH/JSA:aa

18726.7. Passes or Tickets Given to an Agency

Passes or tickets which provide admission or access to facilities, goods or services, or other tangible or intangible benefits (including passes to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, but not including travel or lodging), which are provided to an agency official are not gifts to the official whenever (a), (b), (c), ~~or~~ (d) or (e) applies:

(a) The donor gives the tickets or passes to the official's agency, through a responsible official of the agency, for the sole purpose of distributing the passes or tickets to officials of the agency and their spouses and immediate families and use of the tickets or passes is so limited by the agency; and

The tickets or passes are not earmarked by the donor for any specific agency officials; and

The agency retains a written public record of the terms under which the tickets were accepted by the agency and the terms under which the tickets or passes were distributed and to whom they were distributed.

(b) The tickets or passes are provided to the agency for an event at a publicly-owned facility under the jurisdiction of the agency and neither the agency nor any agency official receiving

or distributing the tickets or passes for the agency gives any of the tickets or passes to any person who is not an agency official, or not an agency official's spouse or immediate family members.

(c) The tickets or passes are provided to the agency as part of the contract for the use of the facility and the distribution and use of the passes or tickets are regulated by an officially adopted policy of the agency.

(d) The tickets or passes are provided to the agency official for use by the official and his or her spouse and immediate family because the official has an official or ceremonial role or function to perform on behalf of the agency at the event in question.

(e) The tickets or passes are provided to an agency or agency officials for use at an event at a publicly-owned facility constructed or operated under the provisions of a joint exercise of powers agreement and such agency is a party to the joint exercise of powers agreement.



County of San Diego

LLOYD M. HARMON, JR.
COUNTY COUNSEL

OFFICE OF COUNTY COUNSEL
385 COUNTY ADMINISTRATION CENTER
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2469
(619) 531-4860

May 24, 1989

CHIEF DEPUTY COUNTY COUNSEL
ANTHONY ALBERO
DANIEL J. WALLACE

DEPUTIES

ANNE HANSEN	EDMUND E. MOZUL
NATHAN C. MONTGOMERY	SUSAN A. CRABER
RALPH E. BRADSHAW	DONALD M. MILL
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DEBBIE A. BRUCE	CLAUDIA M. FITZPATRICK
THOMAS E. MONTGOMERY	JODI L. DOUGHERTY
JACQUELINE STERN	JANICE L. MCGLICK
MORRIS G. MILL	MARY MITCHELL
MARY C. MEAD	

Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Honorable Commission:

Re: Petition to Amend Regulation 18726.7

This is a request that the Fair Political Practices Commission ("Commission") amend Regulation 18726.7 to add subdivision (e) to read as follows:

"(e) The tickets or passes are provided to an agency or agency officials for use at an event at a publicly-owned facility constructed or operated under the provisions of a joint exercise of powers agreement and such agency is a party to the joint exercise of powers agreement."

The reason for this request arises out of the following factual situation: On January 25, 1966, the County of San Diego ("County") and the City of San Diego ("City") entered into a joint exercise of powers agreement ("Agreement") establishing the San Diego Stadium Authority ("Authority"). The purpose of the Agreement was to construct and operate multi-purpose publicly owned stadium. The Authority is a separate public entity, administered by a governing board of nine members, two of whom are appointed by the Board of Supervisors of the County of San Diego. The City was responsible for construction of the stadium as agent for the Authority and the entire stadium is leased to the City. The City has the right to sublease or permit use of all or any part of the stadium premises and has entered into Partial Use and Occupancy Agreements ("Occupancy Agreements") with numerous lessees. In each of the Occupancy Agreements certain areas are reserved to the City, and the City may issue up to 26 credentials which are necessary in order to gain admittance to the stadium, which is otherwise under the exclusive control of

¹A copy of Regulation 18726.7 as proposed is attached.

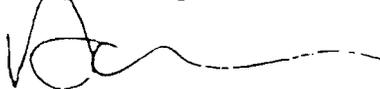
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the lessee, and to the specific spectator area reserved to the City. The credential is in the form of a ticket issued by the lessee which identifies the date the credential may be used and the location reserved to the City to which the credential holder may be admitted. These credentials are provided to the City who in turn distributes them to authorized credential holders, which includes members of the Board of Supervisors. The purpose of the credentials is to provide access to the stadium for persons who can aid the growth and promotion of the City and the County of San Diego. The tickets or passes given to the City and utilized by City officials come within subdivision (c) of Regulation 18726.7 and, therefore, are not gifts to the City officials. In addition, the tickets or passes provided by the City to City officials constitute part of their compensation and are not "income" pursuant to Government Code section 82030(b)(2).² Such is not the case with the tickets or passes provided to the members of the Board of Supervisors, notwithstanding the fact that the County is the other party to the Agreement establishing the Authority to construct and operate the stadium facility. This proposed amendment is to correct this circumstance and is consistent with the theory and purpose behind the other subdivisions of Regulation 18726.7.

The Commission is authorized to adopt, amend or repeal regulations to carry out the intent of the Political Reform Act of 1974, as amended (Gov. Code sec. 81014, also see: Gov. Code sec. 82028). It is requested that the Commission direct the staff of the Commission to take immediate action to give any required notice of the proposed amendment of Regulation 18726.7 as suggested herein and to set the date of hearing at the first meeting of the Commission upon expiration of the required period of notice.

Your favorable consideration of this request is appreciated.

Very truly yours,



LLOYD M. HARMON, JR.
County Counsel

LMH:bf
Encls.

²See letter dated June 11, 1979 from Commission to John W. Witt, City Attorney, City of San Diego.