

1 Amend 2 Cal. Code Regs. Section 18438.2 as follows:

2 **§ 18438.2. Proceedings Under Government Code Section 84308.**

3 (a) ~~For purposes of Government Code Section 84308, a~~ “proceeding involving a
4 license, permit or other entitlement for use” ~~includes~~ means any proceeding to grant, deny,
5 revoke, restrict, or modify a license, permit or other entitlement for use, that does not solely
6 involve purely ministerial decisions and is:

7 (1) Applied for by the party;

8 (2) Formally or informally requested by the party; or

9 (3) A contract between the agency and the party or a franchise granted by the agency to
10 the party, other than a contract that is competitively bid, a labor contract, or a personal
11 employment contract. For purposes of this provision:

12 (A) A “labor contract ” is a contract or agreement reached through collective bargaining
13 or with a representative group regarding the salary, benefits, or terms and conditions under an
14 employment or retirement policy for employees or retirees, including a project labor agreement
15 entered under Public Contract Code Section 2500.

16 (B) A “personal employment contract” is a contract for employment, including the terms
17 and conditions of employment, between the agency and an agency employee.

18 (C) Except as provided in subdivision (a)(3)(A), a contract between the agency and an
19 independent contractor is neither a labor agreement nor personal employment contract.

20 ~~(b) A proceeding involving a license, permit or other entitlement for use is “pending~~
21 ~~before” an agency:~~

22 ~~(1) When the application has been filed, the proceeding has been commenced, or the issue~~
23 ~~has otherwise been submitted to the jurisdiction of an agency for its determination or other~~
24 ~~action;~~

1 (2) ~~It is the type of proceeding where the officers of the agency are required by law to~~
2 ~~make a decision, or the matter has been otherwise submitted to the officers of the agency for their~~
3 ~~decision; and~~

4 (3) ~~The decision of the officer or officers with respect to the proceeding will not be purely~~
5 ~~ministerial.~~

6 [OPTION 1] (b) “Pending.” A proceeding involving a license, permit, or other
7 entitlement for use has commenced and is pending only when:

8 (1) The decision is before the officer for the officer’s consideration. If the officer is a
9 member of a governing body, this includes any item placed on the agenda for discussion or
10 decision at a public meeting of the body; or

11 (2) It is reasonably foreseeable the decision will come before the officer in the officer’s
12 decisionmaking capacity and the officer knows or has reason to know:

13 (A) That an application has been filed; or

14 (B) The issue is otherwise within the jurisdiction of the agency for its determination.

15 [OPTION 2] (b) “Pending.” A proceeding involving a license, permit, or other
16 entitlement for use has commenced and is pending only when:

17 (1) The application has been filed; or

18 (2) The issue is otherwise within the jurisdiction of the agency for its determination or
19 other action.

20 Note: Authority cited: Section 83112, Government Code. Reference: Section 84308, Government
21 Code.