

State of California



Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement •• Statements of Economic Interest
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August 14, 1980

Michael L. Fischer, Executive Director
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco CA 94105

A-80-08-045

Dear Mr. Fischer:

This is in response to your letter of May 16, 1980, in which you asked whether persons who represent permit applicants and appellants before the state and regional commission are lobbyists under the Political Reform Act. We have spoken to John Bremner by telephone about this question and this letter further confirms that conversation.

From the information provided by you and Mr. Bremner, we have concluded that it is unlikely that any of the "regulars" you referred to are "lobbyists" under the Act.

A "lobbyist" is a person who, for pay, contracts to communicate with elective, state or agency officials for the purpose of influencing legislative or administrative action if a substantial or regular portion of his time is spent doing such lobbying. Government Code Section 82039.

"Administrative action" includes 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. Government Code Section 82002.

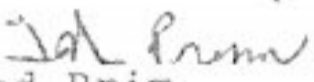
As I understand it, most of the activities you are concerned with are in connection with permit applications and appeals from commission action on such permit applications. The term "quasi-legislative administrative action" excludes "[a] proceeding involving the issuance, amendment or revocation of a permit license or other entitlement for use." 2 Cal. Adm. Code Section 18202(2). Thus, unless these "regulars" are paid to influence "quasi-legislative action" (i.e., the adoption of rules and regulations), they will not qualify as lobbyists under the Act.

August 14, 1980

Assuming that a person is paid to lobby non-exempt action, such activity must be a substantial or regular portion of that for which he is paid before he is required to register as a lobbyist. The Fair Political Practices Commission has promulgated a regulation defining "substantial or regular" in terms of various "time tests" and an alternative "compensation test". 2 Cal. Adm. Code Section 18239(e). Most lobbyists qualify under one or more of the time tests. We reviewed these tests with John Bremner who stated that it was highly unlikely that any person spent more than the required amount of time attempting to influence non-permit related commission action. Failing such substantial or regular activity by the person, there is no requirement to register as a lobbyist or to file the periodic reports required of lobbyists.

I hope this satisfactorily answers your questions about the lobbyist provisions of the Political Reform Act as they relate to persons who try to influence Coastal Commission actions. If you have any further questions, feel free to contact me at your convenience.

Very truly yours,


Ted Prim
Executive Director

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California Coastal Commission
631 Howard Street, 4th floor
San Francisco, California 94105
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May 16, 1960

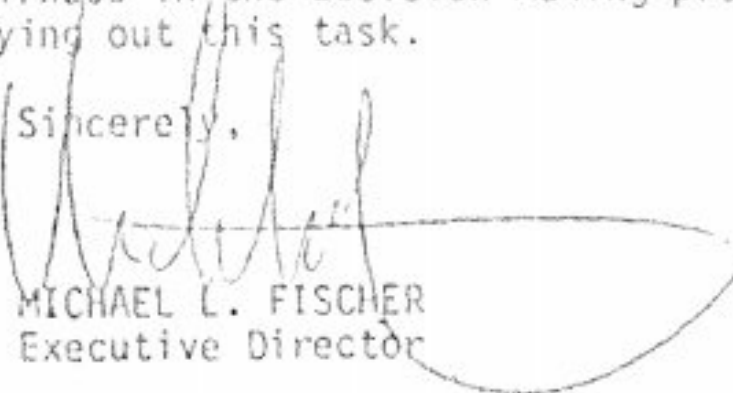
Ted Prim
Fair Political Practices Commission
1100 K Street
P.O. Box 807
Sacramento CA 95804

Dear Mr. Prim:

The Coastal Commission has directed me to request that the FPPC investigate the activities of individuals who maintain a regular professional practice of representing permit applicants and appellants before the state and regional commissions to determine whether their activities constitute lobbying within the meaning of the Political Reform Act, and if so, whether they have complied with the disclosure requirements of the Act. I refer for your attention the articles printed in the Los Angeles Times concerning certain "regulars" who have represented developers and project apponents. My staff would be happy to assist your Commission in identifying such others as come to our attention.

Thank you for your assistance in this matter. As you know, the Coastal Commission's reputation for integrity and fairness in the decision making process, and we request your assistance in carrying out this task.

Sincerely,


MICHAEL L. FISCHER
Executive Director

cc: Coastal Commission

