

# Memorandum

To : Advice File

Date : Nov. 14, 1980

From : **FAIR POLITICAL PRACTICES COMMISSION**  
Sarah Cameron

A-80-11-057

Subject: 82035

At the opinion request meeting of November 13, 1980 it was decided that the jurisdiction for county planning commissioners is the unincorporated area of the county, except that, pursuant to 82035, they also have to disclose real property within 2 miles of the unincorporated area of the county. The staff considered Government Code Section 65300, which allows a planning agency to adopt a plan for "any land outside its boundaries which in the planning agency's judgment bears relation to its planning" but decided that since the city planning commission's plan would take precedence over the county's, this was not sufficient to find that the county planning commission "has jurisdiction" within the incorporated cities within the meaning of Section 82035.

The area within which disclosure of real property must be made for planning commissioners therefore looks somewhat like a piece of swiss cheese. It is two miles larger than the county around the edges, and the holes for incorporated cities are two miles smaller in radius (four miles in diameter) than the cities. That is to say, disclosure extends two miles into the cities at any point on their boundaries.



# County of San Diego

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November 17, 1980

Ms. Sarah Cameron  
Deputy Chief for Conflict of Interest  
Legal Division  
Fair Political Practices Commission  
1100 "K" Street  
Sacramento, California 95814

Dear Sarah:

Re: Advice to San Diego County Planning Commission

Enclosed is a copy of our letter to the Planning Commission as we discussed by phone Friday, November 14. Regarding Question 4 addressed in that letter we have orally communicated to the Commissioners your advice that reportable interests in real property "located in the jurisdiction" generally do not include the incorporated areas of San Diego County, except where property is located within two miles of the city boundary or of any land owned or used by the County.

We greatly appreciate your taking time to assist in providing this advice. If we may be of help to you in the future, do not hesitate to contact us.

Very truly yours,

DONALD L. CLARK, County Counsel

By *William W. Taylor*  
WILLIAM W. TAYLOR, Deputy

WWT/cac  
Enc.  
A# 80-2299



22-1a

## COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

DATE November 7, 1980

TO: Planning Commission

FROM: County Counsel

RE: Political Reform Act Disclosure Requirements

As directed by your Commission today, we submit the following conclusions to certain questions posed by Commissioner York regarding financial disclosure requirements of the Political Reform Act of 1974 (Gov. Code § 81000 et seq.):

Question 1. Under what circumstances is a loan from a commercial lending institution not reportable as "income"?  
Answer: Pursuant to Section 82030 of the Act, reportable "income" includes an outstanding loan from a source located or doing business in the past two years within the jurisdiction, except that the following are exempted:

"Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:

"(A) Used to purchase the principal residence of filer; or

"(B) The balance owed does not exceed ten thousand dollars (\$10,000)." (Subd. (b) (8).)

Question 2. Does "income" of a business entity in which the filing individual owns a ten percent interest, of which the filer must report a pro rata share, refer to the entity's gross income or its net income? Answer: While the Act does not specify, in our opinion, the intended meaning was gross income. Otherwise a business entity which could reasonably be affected by the decisions of the filer could be financially structured to operate at low profit and therefore not be reportable. This is consistent with the reference to "gross receipts" in Section 87207, quoted below. (Before forming this conclusion, we contacted legal staff of the Fair Political Practices Commission (FPPC) and were informed they concurred.)

Question 3. Where individuals pay rents to a business entity which itself is a reportable source of income for the filer, when must the names of those individuals be reported? Answer: Section 87207 provides in pertinent part:

"(b) When income of a business entity, including income of a sole proprietorship, is required to be reported under this article, the statement shall contain:

"(1) The name, address, and a general description of the business activity of the business entity; [and] . . . the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year."\*

Please note that the \$10,000 (pro rated) of gross receipts which triggers the reporting requirement relates to payments from persons to the business entity, not payments from the business entity to the filer.

Question 4. Are interests in real property located within incorporated cities considered to be within the jurisdiction of the County so as to be reportable? Answer: This question is not clearly answered by the Act or regulations or opinions issued thereunder. We have requested the FPPC's advice and they are now considering the question. "Interests in real property" are required to be reported (see §§ 87201 through 87206.5) and are defined as follows:

"'Interest in real property' includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction if the fair market value of the interest is greater than one thousand dollars (\$1,000), . . ."  
[Emphasis added.]

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\* We have omitted provisions of Section 87207 which distinguished between business entities providing legal or brokerage services (for which the threshold amount was \$1,000) and other business entities (for which the above \$10,000 threshold was applicable). These provisions were held unconstitutional in *Hays v. Wood* (1979) 25 Cal.3d 772.

Section 82035 defines "jurisdiction" as follows:

"'Jurisdiction' means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. The jurisdiction of a member of a regional coastal zone conservation commission shall be the permit area in which the regional commission has jurisdiction. Real property shall be deemed to be 'within the jurisdiction' with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency." [Emphasis added.]

It is not clear from this definition whether the incorporated areas are included (other than the area within two miles of the city boundaries or county-owned or -used land). If "jurisdiction" as used in the fifth line of the above-quoted definition refers to direct land use regulatory authority, it would seem that your Commission exercises little, if any.

Since the FPCC is appointed by statute to administer the Act and assist local officials in complying therewith, it is appropriate to request its advice on this matter. We will advise you when we receive that advice; should any Commissioner have reason to file a statement before then, our recommendation would be to include real property (otherwise reportable) located within the cities.

DONALD L. CLARK, County Counsel

By *William W. Taylor*  
WILLIAM W. TAYLOR, Deputy

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