



California Fair Political Practices Commission

February 9, 1990

Beth Pollard
Administrative Assistant
Town of San Anselmo
525 San Anselmo Avenue
San Anselmo, CA 94960

Re: Your Request for Advice
Our File No. A-90-037

Dear Ms. Pollard:

This is in response to your request for advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act").¹

QUESTIONS

Does inclusion of the name of each councilmember in the town's letterhead violate the mass mailing provisions of the Act?

CONCLUSION

Inclusion of the name of each councilmember in the town's letterhead does not violate the mass mailing provisions of the Act. However, the use of such letterhead must also comply with the requirements of Regulation 18901 (copy enclosed).

FACTS

You submitted your request for advice in the standard letterhead of the Town of San Anselmo. On the left side of the page, the stationery lists the names of five councilmembers, commencing with the mayor. All the names are printed in the same typeface and type size. The names are followed by each councilmember's title. The name and address of the Town of San Anselmo are centered at the top of the page. Four city offices with their respective telephone numbers are listed on the right side of the page. You have requested our advice to ensure that the town's letterhead is in compliance with the provisions of the Act.

¹ Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

ANALYSIS

The Act defines a mass mailing as two hundred or more substantially similar pieces of mail. (Section 82041.5.) Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. Read together and taken literally, these two sections could be construed to ban all mailings of 200 or more substantially similar documents if the mailings are done at public expense.

However, the above provisions do not constitute an absolute ban on the use of names of public officials in agency documents. When the stationery is used for mailings of less than 200 substantially similar pieces in each calendar month, the mass mailing prohibitions of the Act do not apply. Conversely, mailings of more than 200 substantially similar pieces in each calendar month must comply with the requirements of Section 89001 as implemented through Regulation 18901 (copy enclosed).²

A mass mailing is prohibited when it either:

(2) (A) Features an elected officer affiliated with the agency which produces or sends the mailing, or

(B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency which produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer;

(3) (A) Any of the costs of distribution is paid for with public moneys; or

(B) Costs of design, production, and printing exceeding \$50.00 are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this regulation.

Regulation 18901(a)(2) and (3).

² The Commission approved the repeal and reenactment of Regulation 18901 in December 1989. The regulation approved by the Commission will be submitted to the Office of Administrative Law in the near future. Although the new regulation is not in effect until reviewed by the Office of Administrative Law and filed with the Secretary of State, the new regulation represents the current policy of the Commission.

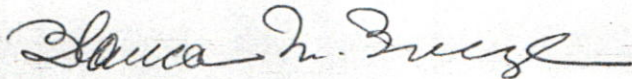
A mass mailing is not prohibited when the public official's name appears only in the letterhead or logotype of the stationery, forms, and envelopes of the agency sending the mailing. (Regulation 18901(b)(1).) In any such mailing, the names of all elected officers must appear in the same type size, typeface, type color, and location on the page. The mailing may not include any other reference to the elected official such as the elected officer's photograph, title, or signature except as specifically permitted in Regulation 18901.

The stationery of the Town of San Anselmo includes the names of all elected officers in the same type size, typeface, type color and location in its letterhead. Accordingly, it is in compliance with the mass mailing provisions of the Act.

Should you have any further questions regarding this matter, do not hesitate to call me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

Enclosure