



## FAIR POLITICAL PRACTICES COMMISSION

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December 8, 2000

Jack L. White  
City Attorney, City of Anaheim  
200 South Anaheim Boulevard, Suite 356  
Anaheim, California 92805

**Re: Your Request for Advice  
Our File No. A-00-225**

Dear Mr. White:

This letter is in response to your request for advice on behalf of the City of Anaheim regarding the gift provisions in the Political Reform Act ("the Act").<sup>1</sup>

### QUESTION

To promote the grand opening of California Adventure, a new theme park in Anaheim, the Walt Disney Company will be making a number of gifts to the city for distribution to city officials and employees. Will the gift rule in Regulation 18944.2 apply to these gifts?

### CONCLUSION

Yes. These gifts appear to meet the criteria in the regulation and will therefore be attributed to the city rather than the city officials and employees who will enjoy the gifts.

### FACTS

The Walt Disney Company ("Disney") will be opening a new theme park in Anaheim called California Adventure. Before the grand opening, Disney will be having a number of facility openings and celebratory events in connection with the new theme park. Disney is proposing to give tickets and vouchers to the City of Anaheim for distribution to individuals selected in accordance with the city's procedure for acceptance of gifts by the city. Disney will not designate or participate in any way in the designation of the recipients of the tickets or vouchers.

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<sup>1</sup> Government Code sections 81000 – 91015. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

### C. Invitations to Media Events at California Adventure

In addition to the field tests, Disney will hold a series of media events at the new theme park before the grand opening. Disney wishes to give Anaheim a number of invitations for attendance at these events where Disney will provide food and memorabilia to the attendees. The city will receive and control these invitations. Therefore, the invitations will meet the first requirement in Regulation 18944.2. As for the third requirement, you indicate that the city manager, in his sole discretion, will decide which city officials will be attending these events. In addition, under your facts, Anaheim will memorialize the receipt of the invitations under the guidelines of Regulation 18944.2, thereby satisfying the fourth criterion.

The remaining issue is whether the free admission, food and memorabilia will meet the "official agency business" requirement in Regulation 18944.2. According to your letter, the city officials who will be attending these events will be acting as "ambassadors" of the city by conversing with reporters and journalists to promote tourism in Anaheim. Thus, admission to the events appears to satisfy the second requirement of the regulation. Nevertheless, in the *Girard* Advice Letter, No. A-98-170a, we advised that the provision of free food and beverages to city officials in a city-owned skybox at a local sports stadium did not meet the second requirement in Regulation 18944.2. The *Girard* letter, however, is distinguishable from your facts. In the *Girard* letter, the cost of admission to the game that had been provided to the city through a contract with the arena did not include the provision of complimentary food and beverages. In this case, the invitations to the limited number of media events at the new theme park cover admission privileges, as well as food and memorabilia offered to everyone invited to attend the event.

Accordingly, the invitations appear to meet all of the requirements in Regulation 18944.2. Consequently, under these facts, the free admission and accompanying meals and memorabilia offered to everyone at the event will not constitute gifts to the attending officials. If you have any other questions, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
Assistant General Counsel



By: Julia Bilaver  
Staff Counsel, Legal Division

JB:jg

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The celebratory events will include participation in the testing of facilities before they are open to the public. Disney will open a limited number of rooms at the new Grand California Hotel, a luxury resort hotel, in order to field-test hotel operations before the grand opening. Disney will give a number of vouchers to stay at the hotel to the city. The vouchers will include lodging at the hotel and meals in the hotel facility.

In addition, Disney will host a series of media events to provide a preview of the new theme park before the grand opening. Disney proposes to give Anaheim a number of invitations for attendance at these events, which will take place within a gated area of the theme park. At these events, Disney will provide food and memorabilia to the attendees. Attendance will be by invitation only. Disney will give the invitations to the city and the city manager, at his discretion, will select the attendees. City officials attending the events will interact with the media to promote the new theme park and tourism in Anaheim.

The city has a procedure for acceptance of gifts to the city for official business, and the city clerk maintains records of these gifts as required by Regulation 18944.2. Anaheim is a tourist destination, and revenue from the Transient Occupancy Tax (Hotel Tax) is the single largest source of revenue for the city. Disneyland, the Anaheim Convention Center, the Anaheim Resort Area, and the Sportstown Area (which includes Edison Field and Arrowhead Pond) all contribute to a central core that attracts visitors to the city. The opening of California Adventure is an important piece of the city's plan to turn Anaheim into an extended stay tourist destination. The new theme park is also an essential part of the fiscal health and continued growth of the city. An important role for city officials is to be ambassadors by participating in Disney's grand opening events, talking to the media, and obtaining firsthand familiarity with the new park.

## ANALYSIS

### A. Gift Laws

The Act regulates the receipt of gifts by local public officials. First, a public official may not participate in any governmental decision where it is reasonably foreseeable that the decision will have a material financial effect on anyone who has furnished a gift worth \$300 or more to the official within 12 months before the decision. (Sections 87100, 87103(e).) Second, no local elected officer or designated employee may accept a gift of \$300 or more from a single source in a calendar year, unless an exception to the gift limit applies. (Section 89503, Reg. 18940.2(a).) Finally, some public officials must annually report on a statement of economic interests those persons who have provided a gift to them worth \$50 or more during the calendar year. (Sections 87207, 87302(b).)

The term "gift" means, in pertinent part, "any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received." (Section 82028(a).) In some cases, a gift enjoyed by a public official will be attributed to the official's agency rather than the official. As provided in Regulation 18944.2, a gift will be deemed a gift to a public agency, and not a gift to a public official, if four requirements are met:

1. The agency receives and controls the payment.
2. The payment is used for official agency business.
3. The agency, in its sole discretion, determines the specific official or officials who shall use the payment.<sup>2</sup> However, the donor may identify a specific purpose for the agency's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment.
4. The agency memorializes the payment in a written public record, as specified.

The purpose of Regulation 18944.2 is to provide a mechanism whereby a donor can provide goods or services to a public agency without the incidental benefit to the public official becoming a reportable gift to the official. You would like to know whether this exception to the gift rules applies to your facts.

#### **B. Vouchers for Lodging and Meals at the California Grand Hotel**

Before the grand opening of the new theme park, Disney will give vouchers to the city for lodging and dining at the new California Grand Hotel in order to field-test hotel operations. The city will receive and control these vouchers thus satisfying the first requirement in Regulation 18944.2. In addition, according to your letter, the opening of the new theme park is an important part of the city's plan to make Anaheim an extended stay tourist destination. Consequently, these vouchers appear to further the official role and function of the agency and therefore meet the "official agency business" requirement in the regulation. (*Girard* Advice Letter, No. A-98-170a.) Regarding the third criterion, you indicate that the city, without any participation by Disney, will select the officials who will receive the vouchers. Finally, to comply with the last requirement, you mention that the city has an established procedure for recording gifts to the city that follows the guidelines in Regulation 18944.2.

Based on the foregoing, the vouchers appear to comply with all of the requirements in Regulation 18944.2. As such, we do not consider the vouchers to be gifts to any of the city officials or employees designated by the city to enjoy them.

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<sup>2</sup> We have previously advised that when a donor earmarks a gift for a specific official and then rescinds the gift, Regulation 18944.2 does not apply when the donor redelivers the gift to the agency and the agency selects the same official to receive the gift. (*McLaughlin* Advice Letter, No. A-96-199a.)