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December 14, 2007

Board Members
La Jolla Community Parking District Advisory Board
1111 Prospect St.
La Jolla, CA 92037

Via E-mail

*Re: City Attorney's Role in Advising the La Jolla Community Parking District
Advisory Board*

Dear Board Members:

On November 20, 2007, Deborah Marengo of Promote La Jolla, Inc. wrote a letter to Mr. Aguirre inquiring about the office's role in advising the La Jolla Community Parking District Advisory Board ("LJCPDAB"). LJCPDAB members received copies of that letter. In addition, the LJCPDAB recently asked our office to respond to the contentions of Attorney Steve Haskins, representing La Jollans for Clean Government, Inc., regarding whether you must file statements of economic interest ("SEIs") under the California Political Reform Act ("PRA"). I have enclosed herewith a memorandum addressing the latter question. As to Ms. Marengo's other questions, they are addressed below. We are providing this information directly to the LJCPDAB, as it is the City entity that this office advises, though we are copying Ms. Marengo as a courtesy.¹

1. Why, only as of November, 2007, did the LJCPDAB receive legal representation from your office when the group began meeting in January 2006?

The Office of the City Attorney is, under Section 40 of the City Charter, the "chief legal advisor of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties." To the extent that the various boards and commissions are created by the City and serve official City functions – advisory or otherwise – they fall within the

¹ Because Promote La Jolla is not a City entity, but instead a contractor providing services to the City, Promote La Jolla itself does not fall within the realm of entities that the City Attorney's Office directly advises. However, because the LJCPDAB is a City entity, and because Ms. Marengo's letter mainly raises questions about the Board's functions and duties, we are responding to that letter by providing this advice directly to the LJCPDAB.

representation of the City Attorney's office as laid out in Section 40. However, not all City boards and commissions require attorney services at all times, nor is it possible, as a practical matter, to provide attorney staffing at all meetings. Whether, when, and by which deputy city attorneys such counsel is provided depends on a number of factors, including the importance of the board or commission, the public interest in providing attorney oversight and assistance, whether the board is merely advisory or wields governmental decision-making power, whether the board requests assistance, and other factors too numerous to list here. Decisions on how to allocate finite attorney resources must be made according to need, after weighing all such factors. In this case, the importance of the pending parking proposals to the community and the fact that serious legal questions had been raised with respect to SEIs and the Brown Act led the City Attorney to conclude that it was necessary to assign an attorney to devote significant time to advising this particular board at this particular time.

- 2. Would the City Attorney's representation of our group be a conflict of interest since according to the La Jolla Light on November 7, 2007 you were quoted as assigning another Deputy City Attorney to a contrary/competing group Free La Jolla? If such representation is not a conflict, please so advise our group in writing.**

There is no conflict, and Mr. Aguirre's statements have been mischaracterized. Mr. Aguirre has, as the La Jolla Light reported, assigned me to "work with" Free La Jolla, in the sense that he assigned me to cover parking issues in La Jolla generally, and Free La Jolla is a citizen organization concerned with those issues. This is no different from any other instance in which, in performing our duties under Section 40, our office listens to citizen concerns and endeavors to consider and address those concerns in advising city entities and, where necessary, enforcing the law.² This does not create an attorney-client relationship between our office and those groups, and there is none with Free La Jolla. However, we always render assistance to various City entities (departments, boards, commissions, etc.) while remaining mindful of the fact that the People of San Diego are our ultimate client.

The characterization of Free La Jolla as a "contrary/competing" group is curious. Free La Jolla is an organization opposed to paid parking. The Board is a government body charged with making and/or contributing to governmental decisions on parking issues. It has not taken an official position on paid parking, nor can it, as a public body, make any decision on its intentions regarding such a matter outside of its publicly noticed meetings, conducted in compliance with the Ralph M. Brown Act. If the LJCPDAB has, even informally, made a decision on management of the District outside of this process, please so inform us, as this would have significant legal implications.

² To further clarify, Tiffany Scherer, the Executive Director of Promote La Jolla, recently asked in an e-mail "why Promote La Jolla does not have a [Deputy] City Attorney that works with us on a regular basis." Although this Office is not counsel to Promote La Jolla because it is a private entity, I look forward to continuing to "work with" Promote La Jolla as an entity deeply involved in the LJCPDAB's issues.

3. Who is the attorney representing the Free La Jolla Group from your office; and, is it the same Deputy City Attorney representing the LJCPDAB?

I am, until further notice, assigned to advise the LJCPDAB. As explained above, this office does not “represent” Free La Jolla.

Thank you for the opportunity to clarify our role in addressing these important issues. Please let me know if you have further questions or require further clarification.

Very truly yours,

MICHAEL J. AGUIRRE, City Attorney

A handwritten signature in black ink, appearing to read 'MP Calabrese', with a long horizontal stroke extending to the right.

By

Michael Calabrese
Chief Deputy City Attorney

MPC: