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REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

RECENT COURT DECISION REGARDING QUASI-JUDICIAL HEARINGS

INTRODUCTION

The purpose of this report is to bring to your attention a case recently handed down concerning the responsibilities of City Council Members to ensure that they provide a fair hearing when action is taken on a quasi-judicial matter before them. Since many of the matters that come before the Council are quasi-judicial in nature, it is important that you be aware of the recent decision.

DISCUSSION

On December 30, 2004, the Court of Appeal issued its opinion in the case of *Lacy Street Hospitality Service, Inc. v. City of Los Angeles*, 22 Cal. Rptr. 3d 805 (2004). In that case, a copy of which is attached, the Court found that the City Council violated an applicant's right to a fair hearing when certain members of the City Council engaged in other activities during the course of the hearing on the matter before them. Specifically, several members of the City Council were talking amongst themselves -- one on a cell phone -- and others were reviewing work. While the lack of attention paid by the Los Angeles City Council in this case does not reflect of the level of attention that is paid by each of you, the fact that the Court of Appeal invalidated a Council's determination is something that should not be taken lightly.

The reason for the invalidation lies in the fact that the matter being heard was a quasi-judicial as opposed to a legislative one. A legislative act is one where a rule or policy is formulated that will be applied to future cases, while a quasi-judicial act is one that involves the actual application of such a rule or policy to a specific set of existing facts. *Pacifica Corporation v. City of Camarillo*, 149 Cal. App. 3d 168, 174 (1983). The court in *Lacy* was clear that while it is not a court's role to dictate how a city council should act as a legislative body, when acting in a quasi-judicial manner, the fundamental principle of due process requires that "he who decides must hear." *Lacy*, 22 Cal. Rptr. 3d at 809, quoting *Vollstedt v. City of Stockton*, 220 Cal. App. 3d 265, 276 (1990). As the Los Angeles City Council was engaged in other activities during the taking of testimony, the court found that the appellant's due process rights were violated, and invalidated the Council's action. In order to protect the City of San Diego from a similar court decision, it is important that care be taken to provide people on both sides of a quasi-judicial matter the hearing to which they are entitled.

CONCLUSION

When the City Council hears a quasi-judicial matter, the parties on both sides of the item are entitled to a hearing that is fair; one at which they have an opportunity to speak and to be heard. If the City Council, either by inattention or other reason deprives them of that opportunity, the Council's decision on the item is subject to challenge and potentially being set aside by a court.

While the primary purpose of this report is to pass on information about the recent court decision in this area, the discussion provides a good opportunity to remind you more generally about restraints that attach to your activities in these types of matters. For that reason, I am also attaching the Report to Council issued by this office on June 15, 1990, concerning the due process and Charter implications of ex parte communications by Council Members. It is my aim in providing this information to assist you and ensure that any actions that you take are legally defensible, and that people who have business before the City of San Diego receive the fair and impartial deliberation that they are entitled to under the law.

Respectfully submitted,

MICHAEL J. AGUIRRE
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Attachments
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