MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE

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The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

If you would like to give us your input on any of these questions, the Opinion Unit would be delighted to hear from you. The Attorney General welcomes and solicits the views of all interested persons concerning the legal issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at http://oag.ca.gov/opinions.

NEW QUESTIONS ASSIGNED DURING DECEMBER 2018

No new matters were assigned in December.

OPINIONS PENDING
Opinion Requests

18-1001 Is a county animal shelter permitted to refuse to relinquish an owner-surrendered dog to a nonprofit no-kill shelter? (Medeiros)

18-903 Did a written communication from a constituent agency representative and his alternate to the joint powers agency board to which they were appointed constitute an improper "serial meeting" under the Brown Act? (Nolan)

18-902 When a subdivider owns one parcel and subdivides that parcel pursuant to a parcel map, then sells off the resulting new subdivided parcels, and subsequently acquires a contiguous parcel and seeks to divide that parcel pursuant to a parcel map, should the local agency count the previously subdivided contiguous parcels as part of the application? (Medeiros)

18-901 1. Is the Bagley-Keene Act violated if the Commission votes on an agenda item where the agenda states only that the matter will be discussed, not specifically that the Commission would take any action on the item, but the top of the agenda contains a general statement that the Commission may act on any item listed on the agenda? 2. Is the Bagley-Keene Act violated if a majority FPPC Commissioners meet outside a public meeting (e.g., over lunch) and talk about how the Bagley-Keene Act applies to the FPPC? 3. Is the Bagley-Keene Act violated if one member of the public sends an email to five FPPC Commissioners and other members of the public and one Commissioner responds by email, but only to the members of the public? (Daniels)

18-603 Does a county superintendent of education's "stay and rescind" authority permit the stay of sale or issuance of bonds by a school district with a qualified or negative certification? (Ed. Code sec. 42127.6.) May such a stay remain in place pending resolution of a related investigation by the District Attorney? (Binsacca)

18-502 Do nuisance abatement liens expire after 10 years; if so, what is the procedure and effective date for renewal? (Bidart)

18-501 Are public benefit corporations exempt from the document transfer tax? (Binsacca)

18-304 Are the positions of offices of county supervisor, member of a local transportation commission, and/or member of a multi-agency joint powers agency established to provide public transportation services incompatible public offices? (Daniels)

18-303 How is recordation of maps and surveys to be treated under SB 2? (Binsacca)

18-201 Is it a Brown Act violation for joint powers authority members to consult appointing authority in open session? (Bidart)

18-103 Does Penal Code section 919(b) require the civil grand jury to annually investigate local detention centers as "public prisons"? (Bidart)

17-1101 Are the offices of Riverbank City Mayor and Stanislaus Consolidated Fire District Director compatible? (Eisenberg)

17-701 What are the proper uses of civil enforcement penalty funds collected under the Unfair Competition Law? (Medeiros)

17-602 May a city condition its grant of a land developer's application for a "density bonus" (see Gov. Code, section 65915) on the developer's payment of a public benefit fee? (Binsacca)

17-202 Does state law preempt the enforcement of a county ordinance that declares "intentionally killed and left standing trees" to be a public nuisance? (Bidart)

17-101 May a city validly set health and welfare benefits for its city council members at a dollar amount equal to a set percentage of the benefits provided to the city's highest-income employee group, and, if not, what are the consequences of overpayment? (Bidart)

16-402 Must specified prior offenders receive a formal pardon from the Governor in order to obtain a "certificate of rehabilitation and pardon" and qualify for a classified employment position at a school or community college district? (Eisenberg)

16-301 May a water district provide retirement contributions to members of its governing board without violating statutory compensation limits? (Medeiros)

16-201 May a local jurisdiction require a subdivision applicant to eliminate the designation of a remainder parcel on a tentative parcel map, or require an applicant to provide additional analysis of a remainder parcel that has already been approved for development? (Eisenberg)

15-1102 Request for advice on the jurisdictional authority of a local housing authority and an out-of-state housing authority under state law. (Binsacca)

15-301 Is the time for filing the report required under Business and Professions Code section 805 tolled when a healing arts licentiate requests a hearing on the action that triggered the filing requirement? (Binsacca)

14-202 May the "premium" generated from a school district bond sale be used to pay for expenses of issuance and other transaction costs? (Medeiros)

Quo Warranto Matters

18-1103 Does Ridgecrest city council member reside within city boundaries? (Daniels.)

18-301 Are the offices of Vineland School District Board member and Lamont Public Utilities District Board member compatible? (Bidart)

18-203 Is the defendant properly serving on the Santa Barbara County Association of Governments governing board? (Medeiros)

18-202 Are defendants lawfully serving on the Fresno County Employees Retirement Board? (Daniels)

17-603 Are Deanna Jackson and Matthew Hurley eligible to hold seats on the Atwell Island Water District Board of Directors? *(On hold pending litigation.)* (Daniels)

CONCLUSIONS OF OPINIONS ISSUED IN DECEMBER 2018

14-403—December 6, 2018—1. Where a city owns real property in an unincorporated area of a county and the city itself uses that property for any activity the city is empowered to undertake, the city's extraterritorial property is not required to comply with the county's building and zoning ordinances.

2. The city's freedom from county building and zoning ordinances is not conditional on the city applying its own building and zoning ordinances to its extraterritorial property, but the city must ensure that any buildings on the property comply with state law, including the California Building Standards Code.

3. If a city leases extraterritorial property to a private party, the freedom from the county's building and zoning ordinances available to the city may be extended to the lessee if the lessee's use of the property serves a primarily public, rather than private, purpose.

11-201—December 26, 2018—1. Yes, a California charter school and its governing body are subject to the Ralph M. Brown Act and the California Public Records Act.

2. Yes, a California charter school's governing body is subject to Government Code section 1090.

3. Yes, a California charter school's governing body is subject to the Political Reform Act of 1974.

4. Yes, in general, the books and records of California charter schools that are chartered by a school district or county board of education are subject to review and inspection by a grand jury. However, the books and records of California corporate charter schools that are directly chartered by the State Board of Education are not subject to review and inspection by a grand jury.

OPINIONS CONCLUDED IN DECEMBER 2018

(Answered by Letter, Withdrawn or Cancelled)

No matters were concluded in December.

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