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November 13, 2007

BY FACSIMILE AND FIRST CLASS MAIL

La Jolla Community Parking District Advisory Board

C/O Promote La Jolla, Inc.

ATT: Tiffany Sherer, Executive Director

1150 Silverado St., Ste. 221,

La Jolla, CA 92037

Facsimile: 858-454-5038

Re: La Jolla Community Parking Advisory Board/ Cease and Desist Demand

Dear Ms. Sherer:

Please be advised that this firm represents *La Jollans for Clean Government, Inc.*, a watchdog group created by La Jolla residents to insure openness and legal compliance in local City sponsored boards and committees.

It has been brought to our attention that the La Jolla Community Parking District Advisory Board has violated the California Political Reform Act. If true, no further action should occur to consider the proposal to institute paid parking in the village of La Jolla until compliance is obtained.

The Political Reform Act (California Government Code §87000 et seq.) assures that public officers, including those of the La Jolla Community Parking District Advisory Board, serve the larger public interest, not their own financial interests. Unfortunately, it appears that the members of the Board, probably unknowingly, have violated that statute. Board Members, to avoid potential liability and to satisfy the law, must immediately cease any further action to consider the parking proposal formulated by Promote La Jolla prior to achieving full compliance with the Political Reform Act. Additionally, no action to review or act on a parking proposal should occur until all violations of the current and past members have been publicly disclosed and fully remedied.

Each member of the Parking Board is obligated to file an individual *Statement of Economic Interest* which discloses a wide range of financial interests, including real property holdings, sources of income, investments in business entities, and the like. Cal. Gov. Code §§87300 et seq; Cal. Gov. Code. §87500. Through this disclosure, the public is guaranteed that members will advance the

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common interest, not their own. Cal. Gov. Code. §87100. Yet, it appears that the members of the Board have failed to make this disclosure, and have violated the Political Reform Act. Cal. Gov. Code. §§91000 et seq.

Indeed, it is beyond legal debate whether members of a Parking Advisory Board are bound by the strictures of the Political Reform Act, including the requirement to file Statements of Economic Interest. As the Fair Political Practices Commission ("FPPC") has declared:

"Members of the Central Parking District Advisory Board are subject to the [Political Reform] Act's financial disclosure provisions."

See FPPC, Opinion A-89-591, 1989 WL 572601.

If any member has failed to file a Statement of Economic Interest, the member jeopardizes the legality of the Board's actions and exposes himself or herself to criminal sanction.

Knowing violations of the Act constitute misdemeanors which may be prosecuted for a period of four years, and result in fines of up to \$10,000.00. Cal. Gov. Code. §91000. The City of Attorney of any Chartered City is authorized by the California Government Code to "...act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city." Cal. Gov. Code. §91001.5. So too, a criminal action can be brought by the District Attorney. Cal. Gov. Code. §91001(b). Violations of the Act are sufficiently serious to warrant suits by any aggrieved private person "residing in the jurisdiction" who "may sue...to compel compliance with the provisions of this title." Cal. Gov. Code. §91003(a). If successful, the private litigant can recover the "costs of litigation, including reasonable attorney fees." Cal. Gov. Code. §91003(a).

Actions in violation of the Act, may be set aside and a "court may restrain the execution of any official action in relation to which such a violation occurred." Cal. Gov. Code. §91003(b). Those participating in the violation, "are subject to discipline...including dismissal." Cal. Gov. Code. §91003.5.

If Board Members have not filed required Statements of Economic Interest, the violation, most likely, is as a result of ignorance of the law. Yet, that defense will be lost if Members proceed with consideration of parking proposals knowing that they failed to make disclosures required by the Act. Further, no further action should occur to consider a parking proposal, or other Board business, until all required disclosures are made for all current **and former** Board Members who took any action to vote on or otherwise influence the parking discussion. This includes actions of Michael Hearsh, the operator of Sunset Parking in La Jolla, who clearly had a financial incentive to install paid parking which would increase revenues and use for his own business. As the regulations of the Fair Political Practices Commission clearly indicate, violations of the Act occur when a person with a conflict merely speaks to other Board Members on a subject producing the conflict. A vote is not required. 2 CCR §§18702, 18702.2.

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Finally, serious violations of the Brown Act may have occurred with respect to deliberations of the Parking Board. We are informed that e-mails as well as telephone and other conversations between Parking Board members have occurred in private when such communications should have only have occurred in public at a properly noticed meeting. There also appear to have been Brown Act violations relating to the noticing of certain meetings as well as openings on the Board. These Brown Act issues will be addressed in a follow up letter to you.

Please understand that La Jollans for Clean Government, Inc., has taken and will take no position on the issue of paid parking in La Jolla, and is only interested in the fairness and transparency of the process of decision.

Governmental decisions must be predicated on trust and respect for the law. If this has not occurred, the first task of the La Jolla Community Parking District Advisory Board must be to restore trust, admit legal violations, and take prompt corrective action. Until then, this Cease and Desist Demand is issued, and the Board is requested to conform to the law.

Thank you for your anticipated prompt compliance with this demand.

Yours very truly,

HASKINS & ASSOCIATES APC

Steven W. Haskins, Esq.

cc: Client