



OFFICE OF THE CITY CLERK

REPORT

TO: The Honorable Chair and
Members of the Rules Committee

DATE: April 20, 1994

FROM: Charles G. Abdelnour, City Clerk

REPORT NO.: 94-01

SUBJECT: PENALTIES FOR FAILURE TO FILE STATEMENTS OF
ECONOMIC INTERESTS BY ADVISORY BOARD MEMBERS

INTRODUCTION:

The following report addresses the issue of City advisory board members' failure or refusal to file Statements of Economic Interests as required by City Council. Unlike elected officials, agency board members and designated city employees, members of the City's numerous advisory boards are exempt from fines and/or penalties provided for in the state Political Reform Act. Consequently, timely compliance with filing requirements have suffered and, in fact, dozens of individuals continue to serve on City boards and commissions without filing the required disclosure statements at all.

ISSUE:

Shall penalties and/or fines be established for City advisory board and commission members who fail or refuse to file Statements of Economic Interests in a timely manner.

RECOMMENDATION:

Direct the City Attorney to research and report back on establishing fines and/or penalties for City advisory board or commission members who fail to file Statements of Economic Interests as required by the City Council.

ALTERNATIVES:

- A. Rescind Council Resolution R-275742 adopted on May 21, 1990 requiring all City advisory boards, committees and ad hoc committees created for a duration of one year or more to adopt Conflict of Interest Codes and file Statements of Economic Interests.
- B. Maintain existing procedure of forwarding names of individuals who fail or refuse to file to the Mayor and City Council for possible action.

DISCUSSION:

On May 21, 1990 the City Council adopted resolution No. R-275742 requiring that all City advisory boards, commissions and committees created for a duration of one year or more by statute, charter, ordinance, resolution or other formal action of the City Council be treated similarly by requiring each to have a conflict of interest code and to have its members file statements of economic interest. Subsequently, Conflict of Interest Codes have been adopted for the majority of these boards. There are now 41 advisory boards with Conflict of Interest Codes and over 360 advisory board members required to file Statements of Economic Interests.

A small percentage of these boards are agency or corporate boards (SEDC, SDDPC, etc.) and clearly fall within the guidelines of the state Political Reform Act. Thus, fines and other penalties provided for by the Act are applicable to these boards. The rest could be considered "solely advisory" and thus would not normally be required to have Conflict of Interest Codes under state law (see Attachment A, City Attorney's opinion dated February 6, 1990). Therefore, there is a question as to whether fines or other penalties established by the state Political Reform Act may be imposed on those members who file late or do not file at all. The absence of any penalty for failure to file has, we believe, hampered efforts to achieve full compliance with the City Council directive.

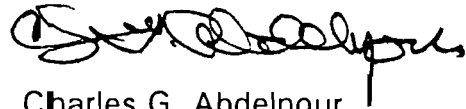
In 1993, more than 30 advisory board and commission members failed or refused to file Statements of Economic Interests at all, despite repeated written notification by the Clerk's office. With the only available penalty being removal from the board or commission, the names of those 30-plus individuals were referred to the Mayor and Council for review and possible action (see Attachment B).

This year, more than 115 members of "solely advisory" boards failed to meet the April 1 filing deadline. Follow-up "late" letters went out this week to these individuals, and we anticipate that many, however, without the inevitable "fine" or other consequence of not filing, will simply ignore the reminders. And, again, we'll be forwarding to you the names of dozens of individuals who continue to serve on advisory boards in violation of Council direction.

In contrast, those individuals covered by the Political Reform Act consistently file in a more timely manner. This year, for example, all elected officials, 99% of the nearly 1,000 designated City employees, and 80% of the agency board members filed on time.

SUMMARY:

In recommending the City Attorney be directed to research and report back on the legalities of imposing fines and other penalties on advisory board members who fail to file Statements of Economic Interests, we are seeking an equitable and consistent means to ensure compliance with the City Council's policy requiring that all board and commission members file these statements.



Charles G. Abdelnour
City Clerk