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PLEASE REFER TO
16-0018

August 14, 1991

Scott Hallabrin, Acting General Counsel
Legal Division
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Re: Request for Advice: Councilman Edward Henderson
File No. I-91-034

Dear Mr. Hallabrin:

By letter dated March 20, 1991, your office rendered informal assistance to Councilman Edward Henderson with regard to his participation in decisions concerning mobilehome rent control in the City of Yucaipa. At that time the City Council did not have a specific decision before it, and the Informal Assistance Letter reflected certain issues or questions which left open a final determination as to Councilman Henderson's participation in any particular future decisionmaking.

In July, the City Council was presented with an initiative ordinance and was requested to place the ordinance on a ballot. The initiative ordinance purports to regulate mobilehome space rents. Councilman Henderson abstained from participating in the City Council's deliberations on the initiative, and no vote was taken by the Council with regard to the proposed ballot measure. However, the City is anticipating that a renewed request to call a special election will be made, or that a petition to circulate the initiative ordinance will be brought forward in the near future. A copy of the circular distributed by the initiative proponents is enclosed. The City Council expects that further decisionmaking will be necessary with regard to the proposed initiative, including deliberations as to the City's legal position with respect to the validity/enforceability of the ordinance and resistance or support which will be given by the City Council to the measure. Councilman Henderson desires assistance with regard to his participation in these actions or issues. In addition, and based on the new information provided herein, Councilman Henderson is also

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requesting advice as to whether he may vote on or participate in decisionmaking on procedural issues related to mobilehome rent control (amendment of the City's existing ordinance, approval of procedural rules related to deliberations of the mobilehome rent review commission, and participation in policymaking or decisionmaking regarding mobilehome rent control appeals by residents or park owners).

Based on your previous letter, and the new information supplied, we are requesting formal advice with respect to Councilman Henderson's participation in decisions concerning the proposed initiative and in other future actions which implement or relate to the City's current mobilehome space rent control ordinance.

A copy of the proposed initiative ordinance, in the form it has been provided to the City, together with proposed amendments which were also brought to the City Council by the initiative proponents, is enclosed. I am also enclosing a copy of the City's present mobilehome rent control ordinance.

The new or additional information which your office has requested or which we believe may be pertinent to your opinion is as follows:

1. Leasehold interest. Councilman Henderson does not have a leasehold interest in the mobilehome space as defined in Regulation 18233. The space is held on a month to month tenancy with no written agreement. According to the park manager, Councilman Henderson will not succeed to any rights of his aunt, as there currently exists no written agreement and the tenancy is "at will." This information is supplemental and, I believe, differs from the assumptions contained in Opinion No. I-91-034.
2. The "Public Generally" Exception. Since we requested your informal advice earlier this year the City has conducted a Mobilehome Survey. I am enclosing a copy of the survey, which includes, starting at page 9, the 1991 survey of mobilehome parks. I believe this will provide the statistics and other information you have requested with respect to number of residents living in mobilehomes, and in mobilehome parks, the number of leases/month-to-month tenancies, etc. One additional statistic, which may not be clear from the Survey is that approximately 1,565 residents are under leases, and approximately 2,106 are under month-to-month tenancies. This

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information has been gathered from current mobilehome park registrations.

It appears that the City Council's first decisionmaking on the initiative measure will be sometime late in September. However, we would appreciate a response as to Councilman Henderson's voting/participation ability on the other issues as soon as possible, as mobilehome rent control is an ongoing issue with the City.

Please let me know if you need additional information with respect to this request.

Yours sincerely,

BRUNICK, ALVAREZ & BATTERSBY



Marguerite P. Battersby
City Attorney
CITY OF YUCAIPA

MPB:prc
Enclosures
cc: Mayor and City Council
Mikki Meith, Interim City Manager