

**OFFICE OF THE COUNTY COUNSEL  
COUNTY OF NEVADA**

ALISON A. BARRATT-GREEN, COUNTY COUNSEL  
AMANDA S. UHRHAMMER, ASSISTANT COUNTY COUNSEL  
JAMIE L. HOGENSON, DEPUTY COUNTY COUNSEL  
KATHRYN E. JACOBS, DEPUTY COUNTY COUNSEL  
SCOTT A. MCLERAN, DEPUTY COUNTY COUNSEL  
RHETTA K. VANDER PLOEG, DEPUTY COUNTY COUNSEL



ERIC ROOD ADMINISTRATIVE CENTER  
950 MAIDU AVENUE, SUITE 240  
NEVADA CITY, CA 95959  
TELEPHONE (530) 265-1319  
FACSIMILE (530) 265-9840  
county.counsel@co.nevada.ca.us

August 29, 2016

By US Mail

Bernard Zimmerman  
Historical Landmarks Commission  
County of Nevada  
P.O. Box 1014  
Nevada City, CA 95959

Re: FPPC Form 700

Dear Mr. Zimmerman,

We are once again in the process of reviewing our Conflict of Interest Code which requires certain positions within the County to file a Fair Political Practices Act Form 700. As you may recall, in 2014, we agreed to further research the Historical Landmarks Commission's position that it is not subject to inclusion in the County's Conflict of Interest Code, and revisit the issue on the next round of review and update to our Code, which is this year. We had advised that we were willing to seek an Advisory Opinion from the FPPC on this issue, and we still are, but we wanted to reach out to you before we did that.

It is my understanding that the commissioners' position is that, because the Commission is an advisory committee, they are exempt from the filing requirements. We have looked closely at that issue, and while we agree that the ultimate authority does not rest with the Commission, but rather with the Board of Supervisors, our opinion that the inclusion of the HLC in our County Conflict of Interest Code is nonetheless advisable derives from the following definition provided in the California Code of Regulations, Title 2, Section 18700(c)(2), which reads as follows:

"(2) 'Member' does not include an individual who performs duties as part of a committee, board, commission, group or other body that does not have decisionmaking authority.

"(A) committee, board, commission, group, or other body possesses decisionmaking authority whenever:...

Bernard Zimmerman  
August 29, 2016  
Page 2 of 2

(iii) It makes substantive recommendations and, over an extended period of time, those recommendations have been regularly approved without significant amendment or modification by another public official or governmental agency.”

In looking at the Resolutions submitted to the Board of Supervisors over the past 23 years seeking certification of their recommendations regarding designation of historic landmarks, it appears that the vast majority, if not all, of the recommendations made by the Commission have been approved unanimously by the Board without significant modification. Moreover, it appears those approvals have often been granted through the Consent Calendar, and therefore, were not the subject of discussion by the Board or the public before the approvals occurred. We were able to identify only one site in the materials reviewed with which the Board has had any significant interaction during meetings, and that has been with the controversial Overland Emigrant Trail. Even then, the Commission's recommendations were largely accepted without modification.

Therefore, because it appears the Board “regularly approved, without significant amendment or modification,” the Commission's recommendations, we believe the Commission possesses “decisionmaking authority” as defined in the above-quoted regulation, rendering the inclusion of the Commission in the County's Conflict of Interest Code necessary.

Of course, as we have already advised, we remain willing to seek an Advisory Opinion from the FPPC if that would be preferred by all involved. Thank you for your time and consideration. We look forward to discussing this issue with you in the near future. As always, please feel free to contact me with any questions or concerns.

Very truly yours,

Office of the County Counsel  
Alison Barratt-Green, County Counsel



---

Amanda Uhrhammer  
Assistant County Counsel