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CITY ATTORNEY

REPORT NO. R 1 6 - 0 3 2 0

REPORT RE:

OCT 04 2016

**DRAFT ORDINANCE AMENDING THE LOS ANGELES MUNICIPAL CODE
REGARDING THE APPLICABILITY OF THE CITY'S MASS MAILING RULES TO
ELECTRONIC COMMUNICATIONS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

As requested by your Honorable Body, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends the Los Angeles Municipal Code to provide that the City's restrictions on using public resources for mass mailing, like the State's mass mailing restrictions, apply only to mailings of more than 200 substantially similar tangible items and do not apply to electronic communications.

Background and Summary of Ordinance

On September 30, 2016, your Honorable Body directed our Office to prepare an ordinance amending the City's mass mailing rules so that they align with State law with regard to electronic communications.

The City's rules regarding mass mailing produced or sent using public resources are contained in Los Angeles Municipal Code Sections 49.60 to 49.64. These rules include restrictions on mass mailings sent during the election cycle by or on behalf of City officers or employees who are candidates for elective office. Specifically, Section 49.63(B) states: "No mass mailing may be produced or sent at City expense by or on

behalf of any officer or employee of the City between the time that officer or employee files a declaration of intent to become a candidate for any elective office and the date of the election at which such person appears on the ballot.” Section 49.64 sets forth the same ban for mass mailings sent at City expense by or on behalf of non-elected candidates. Section 49.61 defines the term “newsletter or mass mailing” to mean “identical or nearly identical pieces of mail in an amount which exceeds 200 pieces, but does not include a form letter or other mail which is sent in response to a letter or inquiry or an official mailing required by law.”

The City’s mass mailing rules as currently drafted apply to electronic communications, as well as to items distributed by hand or regular mail. The definition of mass mailing in Section 49.61 does not exclude emails. The State’s restrictions on mass mailing using public funds, however, do not apply to electronic communications because the Fair Political Practices Commission (FPPC) has adopted a specific regulation limiting the State’s mass mailing rules to “tangible items” only. (See 2 Cal. Code Regs. § 18901(a)(1).) The FPPC has advised that the State’s mass mailing rules do not apply to emails because of the definition contained in this Regulation.

The enclosed draft ordinance would amend the definitions contained in Municipal Code Section 49.61 so that the City’s mass mailing rules, like the State’s rules, would apply only to “tangible items” and not to emails. Please note that the City’s mass mailing rules will continue to be more restrictive than the State’s rules in many other respects. For example, the City’s rules contain only two narrow exceptions: for mail sent in response to a specific inquiry and official mailings required by law. Unlike State law, the City’s restrictions will continue to extend to references to the elected official made in official letterhead, event announcements and press releases sent by mail during the election cycle.

If you have any questions regarding this matter, please contact Deputy City Attorney Harit U. Trivedi at (213) 978-7100. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
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Transmittal