

MINUTE ITEM

38. POLICY CONCERNING PUBLIC ACCESS TO AGENCY RECORDS - W.O. 4595.

After consideration of Calendar Item 2 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION ADOPTS THE FOLLOWING POLICY:

PUBLIC RECORDS OF THE STATE LANDS COMMISSION TO WHICH THE PUBLIC HAS ACCESS, PURSUANT TO GOVERNMENT CODE SECTION 1227, ARE:

1. COMMISSION CALENDARS (EXCLUSIVE OF EXHIBITS).
2. MINUTES OF COMMISSION MEETINGS.
3. LEASES AND OTHER AGREEMENTS AFTER THEIR AUTHORIZATION BY THE COMMISSION.
4. RULES AND REGULATIONS OF THE COMMISSION.
5. RECORDS OF PUBLIC LANDS KEPT IN CONFORMITY WITH THE REQUIREMENTS IN SECTIONS 6201, 6202, 6203, 6204, 6205, 6206 AND 6207, 6208, AND 6209 OF DIVISION 6, PUBLIC RESOURCES CODE, AND SECTIONS 126 AND 127 OF THE GOVERNMENT CODE.

ALL OTHER DOCUMENTS AND RECORDS OF THE STATE LANDS COMMISSION ARE CONSIDERED PRIVILEGED, BUT MAY BE MADE AVAILABLE TO INTERESTED PARTIES AT THE DISCRETION OF THE COMMISSION OR ITS EXECUTIVE OFFICER WHERE THIS WOULD BE IN THE BEST INTEREST OF THE STATE (EXCEPT THAT INFORMATION DESCRIBED IN SECTION 6826 OF DIVISION 6, PUBLIC RESOURCES CODE, WHICH IS FOR THE CONFIDENTIAL USE OF THE COMMISSION, SHALL NOT BE OPEN TO INSPECTION BY ANY OTHER PERSON OR AGENCY WITHOUT THE WRITTEN CONSENT OF THE PERMITTEE; AND ALL APPLICATIONS TO PURCHASE STATE LAND SHALL REMAIN CONFIDENTIAL UNTIL A SALE IS CONSUMMATED OR ALL BIDS ARE REJECTED.)

Attachment

Calendar Item 2 (2 pages)

2.

POLICY CONCERNING PUBLIC ACCESS TO AGENCY RECORDS - W.O. 4595.

In common with other State agencies, the State Lands Division has had requests from various parties for the privilege of inspecting portions of its records.

Government Code Section 1227 provides:

"The public records and other matters in the office of any officer... are at all times open to inspection of any citizen of the State."

while Public Resources Code Section 6826 provides:

"It is a misdemeanor...to disclose (to persons not in the service of the State Lands Commission)...factual or physical exploration results, logs or records (of geological or geophysical surveys on State lands)."

Public records are defined in Sections 1888 and 1894 of the Code of Civil Procedure as:

1. Written acts or records of the acts of official bodies and of public officers.
2. Laws.
3. Judicial records.
4. Other official documents.
5. Public records, kept in this State, of private writings.

"Other matters" (of Section 1227, Government Code) has been defined by the courts as:

"Matters which are public and in which the whole public may have a general interest."

Section 1889 of the Code of Civil Procedure provides that all other writings are private. It is therefore necessary to determine which of the agencies' records are "public" and which are "private".

Personal data, such as that submitted to qualify as a lessee or in connection with an employment application, is not considered to be in the category of public records.

Working papers, correspondence, and records concerning transactions in the process of negotiation are also not considered to be in the category of public records. This classification includes auditors' working papers, appraisers' reports, legal research on pending litigation, engineering and

CALENDAR ITEM 2. (CONTD.)

technical data, and studies and unrecorded maps relating to lands under jurisdiction of the State Lands Commission. However, if the Commission considers such data, it is relieved of its confidential nature, except as noted under Public Resources Code Section 6826.

Attorney General's opinions on similar problems submitted by that office to other agencies have indicated that where public inspection is not specifically required or denied by statute, the head of the agency should set the policy in consideration of the best interests of the State.

IT IS RECOMMENDED THAT THE COMMISSION ADOPT THE FOLLOWING POLICY:

PUBLIC RECORDS OF THE STATE LANDS COMMISSION TO WHICH THE PUBLIC HAS ACCESS, PURSUANT TO GOVERNMENT CODE SECTION 1227, ARE:

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