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October 6, 2011

**VIA FACSIMILE (916.264.7680)
AND REGULAR MAIL**

Honorable Kevin Johnson
Mayor of the City of Sacramento
Honorable Members of the Council
City of Sacramento
915 I Street
Sacramento, CA 95814

Re: Co-Location Card Room Ordinance

Dear Mayor Johnson and Honorable Council Members:

This office represents Stand Up for California! Stand Up for California objects to the City of Sacramento's proposed amendment to City Code chapter 5.32 on the grounds that the proposed amendment violates the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code sections 21000 *et seq.*

The City's Staff Report states that the proposed amendment is exempt from CEQA pursuant to CEQA Guidelines section 15378(b)(2). Section 15378(b)(2) provides that "a Project does not include continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making (except as they are applied to specific instances covered above)." The issue before Council with regards to the proposed amendments is not whether the proposed amendments will result in a potentially significant environmental impact, but whether or not the proposed project qualifies for an exemption from environment review. As discussed below, CEQA Guidelines sections 15378(b)(2) does not apply to the City's proposed amendments to the gambling ordinance. As such, prior to approving the proposed amendments, the County must comply with CEQA by preparing an environmental document that complies with CEQA.

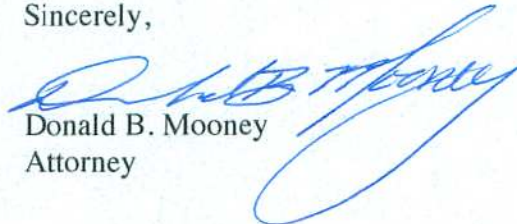
CEQA must be interpreted so as to afford the fullest possible protection to the environment. (*Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 274.) As a result, CEQA exemptions must be narrowly construed. (*Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205-206.) "[W]here there is any possibility that a project or activity may have a significant effect on the environment, and exemption would be improper." (*Id.* at p. 206.) Exemption categories cannot be expanded beyond the reasonable scope of their statutory language. (*Dehne v. County of Santa Clara* (1981) 115 Cal. App. 3d 827, 842.)

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CEQA's requirement to prepare an environmental document applies to discretionary projects proposed to be carried out or approved by a public agency, includes, but is not limited to, the enactment and amendment of zoning ordinances. (See Pub. Resources Code, § 21080(a).) The categorical exemption relied upon by the City does not include the amendment of an ordinance such as proposed by the City. (See *City of Livermore v. Local Agency Formation Commission* (1986) 184 Cal.App.3d 531, 538 (revision of LAFCO sphere-of-influence guidelines does not constitute "continuing administrative or maintenance" activity); *Shawn v. Golden Gate Bridge* (1976) 60 Cal.App.3d 699, 702 (increase in bus fare is not a continuing activity).)

Amending the ordinance would tilt the current level playing field, which has 4 card rooms geographically dispersed throughout the City, in favor of co-located clubs that are twice the size of the current scope permitted. Thus, amending an ordinance is hardly included within "continuing administrative or maintenance activities, such as the purchase of supplies, personnel-related actions, emergency repairs to public service facilities." The proposed amendment to the City's gambling ordinance essentially constitutes a change in the zoning and requirements for card rooms and gambling operations within the City. As such, approval of the proposed amendment without an environmental document such as a negative declaration or environmental impact report would violate CEQA.

Sincerely,



Donald B. Mooney
Attorney

cc: Cheryl Schmit
Matthew Ruyak, Supervising Deputy City Attorney