

MEMORANDUM

TO: Lee Husfeldt
Director of Public & Neighborhood Affairs

FROM: Douglas Holland, City Attorney

DATE: January 8, 2009

RE: City Policy Regarding Defense and Insurance Coverage for the Palm Springs Neighborhood Involvement Committee and Board Members of the Palm Springs Neighborhood Organizations

The Palm Springs Neighborhood Involvement Committee (“Committee”) is an oversight committee created by various neighborhood organizations throughout the City, organized under the provisions of the City’s Municipal Code. The Committee performs various functions as generally described in the Code, including receiving information from the City and distributing that information to the various neighborhood organizations.¹ The neighborhood organizations (“Organizations”), whose representatives comprise the Committee, are autonomous organizations formed voluntarily for the purpose of considering and acting on issues affecting livability and quality of Palm Springs neighborhoods, under the auspices of the City’s Municipal Code.²

Members of the Committee and Board Members, as well as Members of Committees, of the Organizations (collectively “Members”) inquired whether the City would defend and provide insurance coverage for Members who are made a party to a civil lawsuit based on actions taken in the course and scope of their membership in the Committee and/or Organizations. Although the City is not required by the Government Tort Claims Act to defend these Members, it is the City’s policy to provide a defense for any Member who is made a party to a civil lawsuit which arises from or is based on actions taken by a Member within the course and scope of their membership in the Committee and/or Organizations. Any request for legal defense by the City must be made in writing to the City Attorney in a timely manner after a Member is served with a civil lawsuit in order to preserve all applicable defenses.

Second, the City is self-insured for losses up to \$400,000 and has excess coverage for losses that exceed \$400,000. The City’s excess carrier has acknowledged that the Members are covered under this policy and by virtue of the past practice of the City, the City’s self-retention will cover claims involving Members for losses up to \$400,000. Accordingly, it is the City’s policy to pay claims within the City’s self-insured retention for any Member who is made a party to a civil lawsuit which arises from or is based on actions taken by a Member within the course and scope of their membership in the Committee and/or Organizations. Claims in excess of the self-retention will be covered by the City’s excess carrier.

¹ Palm Springs Municipal Code (“PSMC”) 5 2.55030

² PSMC § 2.55030