

- **EX PARTE CONTACTS**

L E G A L

MEMO

DEPARTMENT

To: Mayor Nelson and Members of the Assembly
From: Clifford J. Groh, II, City and Borough Attorney *CJG*
Subject: Importance of Avoiding *Ex Parte* Contacts in Matters that Are Appeals or
Seem Likely to Become Appeals
Date: May 2, 2001

This memorandum gives advice aimed at keeping us all out of trouble. If a citizen calls you or comes up to you and wants to talk to you about an appeal pending before the Assembly, please change the subject or end the conversation. If it will help, please tell the citizen that this is the advice from the City and Borough Attorney. You could also suggest that the citizen (a) call me or (b) write a letter to the Municipal Clerk to be put in the packet. As discussed before, off-the-record contacts concerning an appeal between an Assembly member and a citizen without the presence of other interested parties are *ex parte* contacts.¹ *Ex parte* contacts could lead to either the **disqualification** of the Assembly member or even the **invalidation** of the decision made by the Assembly when hearing the appeal.² If--despite your best efforts--you do have an *ex parte* contact concerning an appeal, please call me immediately at 747-1810 so that we can make sure that it is put on the record before the consideration of the appeal.³

It is also important to avoid any *ex parte* contacts on subjects that might become an appeal. Obviously, this can be difficult. One tip-off of a matter that might become an appeal is if a citizen wants a decision by the City and Borough that will grant a specific and concentrated benefit on himself or herself. If you have questions about a citizen contact on a matter that you think might become an appeal, please call me. Thanks.

This memorandum has been laminated and given to you with two copies for each Assembly member to make it possible for you to keep one copy in the Assembly packet and one handy near the telephone.

¹See, e.g., memorandum to Denton Pearson, "Quasi-Judicial Procedures in Zoning Context," December 1, 2000.

²See *Griswold v. City of Homer*, 925 P.2d 1015, 1019 (Alaska 1996); and McQuillin Municipal Corporations §25.262.50 and §25.218.20 (3rd ed.).

³See *id.* at §25.266.