

MEMORANDUM

TO: BOCC/Planning Commission

FROM: Viner Law

DATE: March 16, 2021

RE: Ex-Parte Communications for Quasi-Judicial Determinations

Quasi-judicial actions apply general rules to a specific request. They require notice, a hearing, and action after applying prescribed criteria, usually defined in the code, to the individual facts of a request.

Ex-parte communications are discussions between local government officials and members of the public that take place outside of the noticed public hearing. These contacts deny due process to both the applicants and opponents of the application because neither is present to hear and rebut statements made to the governing body.

Ex-parte communications may not necessarily result in invalidation of the ultimate decision. Nevertheless, the appearance of impropriety can undermine the integrity of the governing body. All ex-parte contacts in all quasi judicial matters should be avoided.

If any ex-parte communications occur, local government officials should disclose the communication at the beginning of the hearing and describe the communication as completely as possible.