

1 Amend 2 Cal. Code Regs. Section 18438.2 as follows:

2 **§ 18438.2. Proceedings Under ~~Government Code~~ Section 84308.**

3 (a) For purposes of Government Code Section 84308, a “proceeding involving a license,  
4 permit or other entitlement for use” includes any proceeding to grant, deny, revoke, restrict, or  
5 modify a license, permit or other entitlement for use.

6 (b) “Pending.” For purposes of Section 84308(b), “pending” means pending before the  
7 officer. A proceeding involving a license, permit, or other entitlement for use is pending before  
8 the officer only when:

9 (1) The decision is before the officer for the officer’s consideration. For a member of a  
10 governing body, this includes any item placed on the agenda for discussion or decision at a  
11 public meeting of the body; or

12 (2) The officer knows or has reason to know that an application has been filed, or a  
13 proceeding before the agency has commenced, and that it is foreseeable the decision will come  
14 before the officer in the officer’s decisionmaking capacity.

15 ~~(b)~~ (c) “Pending Before an Agency.” For purposes of Section 84308(c), a proceeding  
16 involving a license, permit or other entitlement for use is “pending before” an agency:

17 (1) When the application has been filed, the proceeding has been commenced, or the  
18 issue has otherwise been submitted to the jurisdiction of an agency for its determination or other  
19 action;

20 (2) It is the type of proceeding where the officers of the agency are required by law to  
21 make a decision, or the matter has been otherwise submitted to the officers of the agency for  
22 their decision; and

23 (3) The decision of the officer or officers with respect to the proceeding will not be  
24 purely ministerial.

- 1 Note: Authority cited: Section 83112, Government Code. Reference: Section 84308,
- 2 Government Code.