

First Supplement to Memorandum 87-58

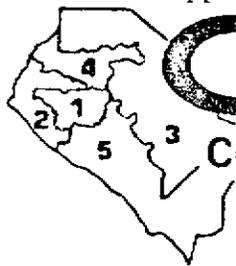
Subject: Study L-1040 - Public Guardian (Comment on Draft of
Recommendation)

Attached is a letter from the Orange County Public Administrator, William A. Baker. Mr. Baker opposes the provision of proposed Section 2920(b) (application for appointment of public guardian) that requires a public guardian to accept appointment as guardian of an estate on order of the court even if the public guardian is opposed to the appointment. Mr. Baker enumerates reasons for this position in the letter.

Even though the letter was not received until shortly before the July meeting, we are distributing it in advance so that the Commission will have an opportunity to become familiar with Mr. Baker's argument. We anticipate that Mr. Baker or a member of his staff will appear at the July meeting to present his position.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary



COUNTY OF ORANGE

COMMUNITY SERVICES AGENCY

OFFICE OF THE
PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN

July 16, 1987

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RE: Staff Draft dated 5-28-87, Recommendation Relating
to Public Guardian and Public Administrator.

Dear Mr. Sterling:

I have received the staff draft and support the proposed changes with the exception of proposed Section 2921(b). My copy of the draft did not include the text of the section, only the summary, and I assumed the text is the same as presented in the tentative recommendation dated September 1986.

I oppose the requirement in Section 2921(b) that the Public Guardian apply for appointment if the Court so orders. As Public Guardian, I must have discretion as to which cases are appropriate. The proposed change suggests I may be ordered to accept referrals that are not consistent with my office policy. At this time the Orange County Probate Court's position is that it will not order the Public Guardian to accept a referral.

The following cases illustrate the type of cases the Court may have ordered the Public Guardian to accept if the law was different:

Case #1 - Private conservatorship estate will no longer support private conservator's fees and the private conservator petitions Court for Public Guardian to become successor rather than continue to administer the estate without fees.

Case #2 - During Dissolution proceedings one spouse petitions Court to have Public Guardian appointed in order to control the other spouse and prevent further harassment.

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Case #3 - Case wherein all that was needed was guardian ad litem for a particular civil action rather than conservator to control all assets.

Case #4 - The referring party is interested in using conservatorship and Public Guardian as quick collection device rather than utilizing civil actions.

In summary it is the position of my office that the above examples are not an appropriate use of a public guardian or public funds and ask your consideration of this position.

I am interested in the public hearing to be conducted in Orange County July 23 and July 24 and appreciate a copy of the agenda in advance.

Sincerely,



WILLIAM A. BAKER
PUBLIC ADMINISTRATOR/GUARDIAN
COUNTY OF ORANGE

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