



STATE OF CALIFORNIA  
**FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
(916) 322-5660 • Fax (916) 322-0886

**To:** Chair Miadich and Commissioners Baker, Wilson, and Wood  
**From:** Dave Bainbridge, General Counsel  
Brian Lau, Assistant General Counsel  
**Subject:** Advice Letter Report  
**Date:** June 30, 2023

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The following advice letters have been issued since the May 26, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the August 17, 2023, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

### **Section 84308**

**Ashlee Titus** [A-23-103](#)

The restrictions in Section 84308(b) are applicable to an “officer of an agency” which is defined under newly amended Regulation 18438.1(d) to include a person who is a candidate for elected office or has been in a candidate for elected office in the 12 months prior to the proceeding, who also has decisionmaking authority with respect to a license, permit or other entitlement for use proceeding. A person who is solely a candidate for elective office is not “an officer of an agency” and is not subject to the restrictions in Section 84308(b) unless the candidate is elected or subsequently becomes an officer of the agency.

### **Campaign**

**Genesis Medellin Cabaccang** [A-23-098](#)

In connection with an August 29, 2023, election in Monterey County, committees may use a filing schedule that combines the semi-annual campaign statement with the first pre-election statement. The combined statement will be due on July 20, 2023, covering the period from the day after the closing date of the last statement filed, through July 15, 2023.

### **Conflict of Interest**

**Brandon Criss** [A-23-048](#)

The Act does not prohibit County Supervisor from taking part in decisions concerning changes to the County’s vacation rental laws where he owns a residence in the County and a bed and breakfast in an incorporated city within the County because the facts do not indicate the proposed changes, including a cap on the total number of permits allowed in a separate area of the County, will have a reasonably foreseeable and material financial effect on his real property or business interests.

**Randy J. Risner**[I-23-081](#)

Councilmember, who is also an employee of the School District, is not prohibited under the Act from taking part in decisions involving the District because it is a local governmental agency and salary from the District would not be considered “income.” Additionally, the Councilmember’s membership with non-profit organizations and a labor union would not generally result in a disqualifying financial interest in decisions affecting the organizations as he does not receive income or gifts from the organizations, and there is no indication the decision would affect the Councilmember’s personal finances.

**Julian Miranda**[A-23-083](#)

City Manager and two city councilmembers are not prohibited from taking part in governmental decisions related to proposed improvement of the City’s Veterans Memorial, despite each official owning real property under 500 or 1,000 feet away from the Memorial, because the proposed improvements are minimal in scope and it is not reasonably foreseeable the project would have a material financial effect on any of the properties.

**Karl H. Berger**[A-23-087](#)

Mayor Pro Tem is not disqualified from decisions regarding the rezoning of an applicant’s project notwithstanding an interest in a business entity, which is a source of income to the official, that owns real property adjacent to a project. Based on the facts provided, it is not foreseeable the project will have a material financial effect on the official’s interest in the business under the financial thresholds of Regulation 18702.1, there is no clear and convincing evidence the decision would have a substantial effect on the business’s real property, and there is no nexus between the governmental decision and the purpose for which the official receives income under Regulation 18702.3.

**Jason R. Alcalá**[A-23-092](#)

Councilmember may not take part in decisions surrounding a 44-property housing development and the initial development of a 31-acre site because he has a disqualifying financial interest in his real property located 700 feet from the project. Based on the facts provided, it is reasonably foreseeable the project may change the income producing potential, character of, or market value of the Councilmember’s property.

**Madeleine Salah**[A-23-094](#)

Planning Commissioner with condominium is not prohibited from taking part in decisions regarding the redevelopment of 14.65 acres located between 500 and 1,000 feet from the condominium. It is not reasonably foreseeable the project will have a material effect on the condominium because the properties are separated by several blocks of existing residential and commercial development and a major expressway. The project site is also currently developed and has long included various and similar commercial, office, and retail uses.

**Lauren Langer**[A-23-096](#)

Planning Commissioner is prohibited from taking part in decisions concerning a 15-story mixed-use hotel and residential building less than 200 feet from the apartment he leases because the efforts to revitalize the block may impact the potential rental value of the apartment and may

impact the Commissioner's use and enjoyment of the property. Thus, it is reasonably foreseeable the decisions will have a material financial effect on the Commissioner's leasehold interest in the apartment.

**Joe Ellinwood**[I-23-101](#)

Officials are not generally disqualified from decisions limited solely to repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities. Based on the facts provided, it appears that this exception would generally apply to decisions anticipated to come before the Flood Control District Board that are limited to levee repairs and debris removal necessitated by recent storm damage. However, to the extent the officials need assistance determining whether any particular decision is limited to repairs, replacement, or maintenance, they should seek additional advice identifying the decision. Additionally, the conflict-of-interest provisions do not generally apply to members of a committee that is solely advisory.

**Revolving Door****Diana C. Messina, P.E.**[I-23-097](#)

Former State Engineer is prohibited from appearing before or communicating with her former agency, for compensation, for the purpose of influencing the agency in certain proceedings for one-year from the last date on which she performed her duties of office. The one-year ban does not however prohibit the former employee's future employment or consultant work to the extent the former employee does not appear before or communicate with her former agency. Additionally, the former employee is not prohibited under the permanent ban from future employment related to the regulatory update where her past participation related to the making of the rules and policies of general applicability.

**Section 1090****Joan L. Cassman**[A-23-086](#)

City may not enter a contract with a consulting agency for project management services to implement a master plan because the consulting agency took on the role of an advisor to the City in the initial contract with the City by recommending the hiring of a project manager, contracting methods, and related services the City should procure in subsequent contracts. Accordingly, the consulting agency is prohibited from entering a subsequent contract to provide the services the consulting agency identified and recommended under its initial contract.

**Jessica Spaid & George Sziraki**[A-23-099](#)

School District Board Member has a noninterest in a contract between the District and her spouse to be a head wrestling coach under the noninterest exception in Section 1091.5(a)(6). Under this exception, the Board Member may participate in making the contract because her spouse has been seasonally employed in the same position by the district for more than one year prior to the Board Member's appointment and the terms of the spouse's employment for the upcoming contract will remain the same.