



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Cardenas, Hatch, Hayward, and Wilson

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report

Date: May 29, 2020

The following advice letters have been issued since the May 11, 2020, Advice Letter Report, which was presented to the Commission at its May Meeting. An advice letter included in this report may be noticed for further discussion or consideration at the June 2020 Commission Meeting. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Conflict of Interest

William Dillon

[A-20-049](#)

A member of a local agency formation commission (LAFCO) could take part in decisions involving the review of a community services district (CSD) for the purpose of determining which of the CSD's authorized powers were being exercised, despite the official owning real property within the boundaries of the CSD, because the determinations would not have a foreseeable financial effect on the official's real property.

Rafael E. Alvarado Jr.

[A-20-054](#)

Mayor could take part in decisions related to an area's development plan, despite owning real property within that development plan. Based upon the facts provided, 50% of the businesses in the jurisdiction are located within the development plan area and 30% of residential properties are located in or within 1,000 feet of the development plan area. Because the decisions would not uniquely affect a residential property, any foreseeable effect on the mayor's real property was not distinguishable from the effect on the public generally. However, a councilmember whose employer was seeking to build a new office building dependent on the amended development area could not take part in decisions related to the development plan, as his source of income interest would be uniquely affected.

Brian A. Pierik

[A-20-057](#)

City councilmember is prohibited from taking part in decisions related to the downtown trolley service, including the potential termination of the service. Given that the councilmember operated a business from the leased commercial property within 500 feet of a trolley stop, and the trolley service directed riders to local businesses at no cost to the businesses, the decisions regarding the service could foreseeably affect the rental value of the leased property. However, the official could potentially take part in certain trolley-related decisions, if properly segmented.

Brian A. Pierik

A-20-060

City councilmember is prohibited from taking part in decisions related to the downtown trolley service, including the potential termination of the service. Because the councilmember owned rental properties within 500 feet of a trolley stop the effect on the property is foreseeable and material unless there is clear and convincing evidence that the decision would have no measurable impact on the property. However, the official could potentially take part in certain trolley-related decisions, if properly segmented.

Robert Fabela

A-20-068

The Act does not prohibit a mayor from taking part in decisions related to the proposed regulation of cannabis distribution, manufacturing, cultivation, and retail sales within the city, despite his son working as a consultant in the cannabis industry. While the son is living in the mayor's home, he is older than 18 and therefore does not qualify as a member of the mayor's "immediate family" and also does not pay the mayor rent or other payments such that he would qualify as a source of income. However, this advice is limited to conflicts of interests under the Act and does not speak to other potential conflict of interest provisions that may apply, including common law conflict of interest provisions.

Section 1090

Kotaro Nakamura

A-20-033

Section 1090 does not prohibit city from contracting with a firm to perform design-build services on the park restoration project where the firm provided both the concept design and 60% design documents under a previous contract for the same project. Under the initial contract, the firm did not have an opportunity to influence the subsequent contract because the restoration project provided very limited leeway in the design and the services provided by the firm under the subsequent contract will simply be a continuation of the services it provided under the initial contract.

Statement of Economic Interest

Christopher J. Diaz

I-20-056

The Act requires an official to use "reasonable diligence" when reporting sources of income. If an official has reason to believe a business entity is doing business in the jurisdiction, the official should report that investment. Otherwise, the determination of reasonable diligence will depend on the nature of the interests and other facts specific to the situation. If an official needs assistance determining whether to report any particular interest, the official should seek further advice identifying the company, describing any activity the official knows or has reason to know occurs within the jurisdiction, and all efforts made to ascertain whether the business has activity with within the jurisdiction.