



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

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

Subject: Advice Letter Report and Commission Review

Date: September 25, 2020

The following advice letters have been issued since the August 28, 2020, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the October 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>.

Behested Payments

Ravinder S. Kapoor

[I-20-102](#)

Under Regulation 18215.3(b), a state elected official who also serves as a member of a governmental board tasked with overseeing a fund (designed to expand access to higher education through savings) is not required to report donations to the fund as behested payments if the donations are solicited by agency staff and the elected official is not featured in the solicitation(s).

Conflict of Interest

Samantha W. Zutler

[A-20-089](#)

The Act's conflict of interest provisions prohibit City Planning Commissioner from taking part in governmental decisions relating to a mixed-use development project because it is reasonably foreseeable that those decisions would have a disqualifying effect on commercial real property, located within 500 feet of the project site and owned by the parent of the business entity that employs the commissioner.

Prasanna Rasiah

[A-20-103](#)

City Mayor may not take part in amending a General Plan to permit additional office-space where there is clear and convincing evidence the underlying projects would substantially affect property owned by a business in which the Mayor has investment and source of income interests, including a foreseeable effect on the property's market value and income-producing potential.

Joseph D. Smith

[A-20-109](#)

A public official may take part in approving or rejecting a tree removal permit application, despite the tree being located near the official's leased property, where the tree is not within sight of the property and removal of the tree would have no effect on the rental property, including the official's use and enjoyment of the property.

Revolving Door

Anthony C. Williams

[A-20-100](#)

The one-year prohibition embodied in Section 87406(d) prevents a former employee of the Governor's official from lobbying the office and any state administrative agency subject to the direction and control of the Governor. However, the prohibition does not encompass constitutionally elected officeholders, such as the Attorney General, or statutorily independent agencies. The revolving door provisions also do not prohibit an ex-employee from lobbying the Governor's immediate staff on a volunteer basis. Finally, an ex-employee may advise direct reports and representatives of their new employer as to strategies that may be helpful in such an advocacy meeting, as long as the ex-employee is not identified in communications or appearances made by the new employer.

Section 1090

Yolanda Summerhill

[A-20-036](#)

Section 1090 does not prohibit a City from entering a contract with an engineering design firm to prepare the final construction documents for three water main bay crossings where the firm previously performed work for the City on the same three water main bay crossings, among others. The firm, which is not a construction contractor, previously performed work for the City that was preliminary to preparation of final construction documents and construction of a project. The facts provided indicate that the firm had no responsibilities for public contracting on the City's behalf in performing the prior work, and the firm did not participate in the making of the subsequent contract for purposes of Section 1090 through its performance of the prior work for the City.