



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, Cardenas, Wilson, and Wood

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

Subject: Advice Letter Report and Commission Review

Date: February 26, 2021

The following advice letters have been issued since the January 29, 2021, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the March 2021 Commission Meeting. Full copies of the 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>.

Campaign

Frank Adomitis

[A-21-005](#)

If an organization engages in activity in California that qualifies it as a recipient committee, it must continue to file as a committee until termination. If the organization no longer engages in campaign activity, it may terminate if it: (1) has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future; (2) has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations; (3) has no surplus funds; and (4) has filed all required campaign statements disclosing all reportable transactions. A treasurer may withdraw through filing an amended Statement of Organization Form 410, or termination of the committee.

Conflict of Interest

Diana Varat

[A-20-140](#)

A city councilmember is not prohibited from taking part in decisions relating to a development project due to that councilmember having worked for a consultant that previously analyzed the project on behalf of the city prior to the councilmember being elected to the city council. Because the consultant's work on the project was completed prior to the official's election, and there is no indication that the current decisions regarding the project will implicate the official's interest in the consultant or the official's business, it is not reasonably foreseeable that decisions relating to the project would have a disqualifying financial effect on any of the councilmember's financial interests.

Greg Gillot

I-20-160

A county supervisor is prohibited from participating in negotiations regarding mitigation of offsite impacts of a proposed casino. It is reasonably foreseeable that the governmental decisions involving mitigation of the casino's impacts would have a material financial effect on his abutting mining interest which is within 500 feet of the casino property.

Cara E. Silver

A-21-007

A city councilmember is not prohibited from taking part in decisions relating to a project to install bicycle lanes and pedestrian improvements on a street located 550 feet from the councilmember's single-family residence because it is not reasonably foreseeable that those decisions would have a material financial effect on the councilmember's real property interest in that residence under Regulation 18702.2(a)(8).

John Corrigan

A-21-008

A member of a city parks commission may take part in a decision on proposed improvements in an existing park which is located more than 500 feet but less than 1,000 feet from his residence because the evidence indicates that the proposed improvements would not have measurable impact on his property.

Sara Lang

A-21-009

Where the foreseeable financial impact of decisions regarding a development would result in a potential garbage service contract providing additional annual revenue of less than \$10,000 to his spouse's employer, the official is not prohibited from taking part in decisions. (Regulations 18702.1(a)(2)(A) and (B), 18702.3(a)(4).)

Katherine Wisinski

A-21-016

A city councilmember is not prohibited from taking part in the review and approval of various decisions pertaining to a neighborhood development where there is no indication of substantial evidence rebutting the presumption that the decisions would have no reasonably foreseeable, material financial effect on the Councilmember's real property, which is more than 1,000 feet from the property subject to the decision.

Yolanda Summerhill

A-21-017

A planning commissioner is not prohibited from taking part in governmental decisions relating to a conditional use permit application associated with a project to expand a shopping center located approximately 715 feet away from the planning commissioner's residence because it is not reasonably foreseeable that those decisions would have a material financial effect on the planning commissioner's real property interest in the residence.

Lobbying

Gina Biondo

A-20-115

Two affiliated private real estate funds that are sponsored by the same investment firm, which employs a placement agent on their behalf, need not register and file as separate lobbyist employers, as long as the affiliated funds are not involved with lobbying activity and do not

make payments to the placement agent (lobbying firm). The sponsoring firm may file a single lobbyist employer report, and the sponsored funds need not be identified.

Section 1090

Gregory J. Ruebens

A-20-111

A vice mayor is precluded by the Act from participating in a development agreement between city and a developer where the project consists of a biotechnology campus and the official has an interest in another biotechnology company that may be a competing company of the campus's intended tenant. However, the official does not have a conflict under Section 1090, as she has no financial interest in the contract, and the city council may move forward with the development agreement.

Tim Byrd

A-20-134

Where an irrigation district board member votes to approve a voluntary groundwater replenishment program limiting the sale of groundwater to certain agriculture purposes, the member will have "participated" in the making of a contract for the purposes of Section 1090 precluding a farming entity, in which the member has an interest, from subsequently entering into a contract to participate in the program and purchasing groundwater.

Douglas T. Sloan

A-20-146

A city councilmember is not prohibited under Section 1090 from participating in contract decisions involving the city housing authority due to his Section 8 housing assistance payment contracts currently in effect, where his financial interest is not the subject of, nor implicated directly or indirectly by, the decision. Because the facts indicate there will be no foreseeable material financial effect on his rental business, real property, or tenants, and no unique effect on the official in regard to decisions involving the housing authority, the councilmember is similarly not disqualified from taking part in the decision under the Act.

George S. Cardona

A-20-149

The Act does not prohibit a councilmember from participating in governmental decisions relating to pending litigation against city, including a potential settlement agreement, because he has no economic interest in the nonprofit plaintiff as a business entity or source of income and there are no facts suggesting decisions related to the pending lawsuit will have any financial effect on his or his immediate family's personal finances. In addition, the councilmember has no financial interest in a future settlement agreement under Section 1090 where his spouse, a plaintiff in the lawsuit, will not receive any money or be liable for any costs or fees. Finally, he will have a noninterest in a future settlement agreement under Section 1091.5(a)(8) if it results in a monetary payment that would benefit the other plaintiff, a nonprofit organization where his wife is a noncompensated communications officer, so long as he discloses his interest in the city's official records.

Jena Shoaf Acos

A-20-154

An advisory board member's potential lease with the developer of a project for use as restaurant space will not result in a violation of Section 1090 or the Act so long as the advisory board member continues to recuse himself from any decisions related to the project.

Terence Boga[A-20-155](#)

Where a corporation serving as a manager of a public airport with a duty to advise on public contracting on behalf of a public agency participated in making the design-build contract, Section 1090 would prohibit the public agency from awarding the contract to another subsidiary of the corporation's parent company. The corporation has a prohibitory financial interest in the parent company related to the contract.

Eric S. Casher[A-20-161](#)

A city councilmember may take part in decisions related to the renovation and leasing of property within 500 feet of his residence where there is clear and convincing evidence the relevant governmental decisions would have no measurable impact on his property and the lease would not implicate his property for Section 1090 purposes. However, the Act prohibits the councilmember from taking part in establishing an ad-hoc subcommittee because decisions by the subcommittee could have a measurable impact on real property located less than 500 feet from his real property. Additionally, under the Act, mayor may take part in decisions involving a party from which her husband has received \$531.18 in reimbursements, given that the mayor's community property interest in the reimbursements is less than \$500 and therefore the party does not qualify as a source of income. Finally, because the mayor's husband is a "noncompensated officer" for the non-profit contracting party and one of the nonprofit's primary purposes supports the functions of the city, the non-profit constitutes a "non-interest" for the mayor for purposes of Section 1090, and the mayor may consequently take part in the contracting process as long as her interest is noted in the city's records.

David P. Hale[A-21-001](#)

The Act and Section 1090 prohibit a city councilmember from taking part in a contract between the city and her non-profit employer, but because her interest in a non-profit source of income is considered a "remote" financial interest under Section 1091, the city may still contract with the non-profit as long as the interest is noted and the councilmember properly recuses herself.

Gary Winuk[A-21-013](#)

Section 1090 does not prohibit a joint powers authority from entering a contract with a nonprofit organization, where the authority's executive director is the spouse of nonprofit's chief operating officer, so long as the interest is noted and the executive director abstains from any participation in the making of the contract, including extension of the current contract, with the nonprofit.

Ryan T. Plotz[A-21-015](#)

District decisions relating to a 320-unit residential development will have a reasonably foreseeable and material financial effect on an official, where the official is a real estate agent for a brokerage firm and broker, another real estate agent at the firm is the intended relator for the future home sales, and the sales will increase the firm's gross annual revenue by at least \$10,000 or 5 percent of its gross annual revenue. The official may not participate in these decisions under the Act. However, under Section 1090, the district is not prohibited from participating in the contractual decisions for this development, because the official's interest meets the definition of a "noninterest" under Section 1091.5(a)(10).