



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Gómez, Wilson, and Wood

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

Subject: Advice Letter Report

Date: November 28, 2022

The following advice letters have been issued since the October 28, 2022, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the January 19, 2023, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Nicole C. Wright

[A-22-117](#)

Vice Mayor may not take part in decisions relating to a proposed resolution to amend a downtown plan, temporarily limiting new office development, because it is reasonably foreseeable that those decisions may have a material financial effect on the official's real property interest in a single-family home located approximately 303 feet from the project area.

Celeste Stahl Brady

[A-22-118](#)

An official with a prohibitive financial interest in a contract involving waste disposal services provided near the official's residence is not prohibited from participating in consent calendar actions to approve the resulting payments made to the provider where the facts do not indicate a reasonable foreseeability that his financial interest in his mobile home's value would be materially affected by this action. Additionally, to the extent that the payment decision meets the definition of a ministerial action, the official's participation would not meet the definition of "making or participating in making a decision" under Regulation 18704(d)(1) and the Act's conflict of interest provisions would not be applicable.

Gifts

Sarah Lange

[I-22-110](#)

A non-profit's plan to raise funds for its fellows program would not result in classification of donors as sources of gifts to public officials. Rather, the source of any gifts would be the bona fide 501(c)(3) nonprofit corporation. However, the value of the program itself and the course materials provided in connection with the educational program are educational materials and would not be regarded as "gifts" to the participants. Moreover, payments for travel would qualify

for the exemption for gifts of travel from a 501(c)(3) corporation. Under this exception, payments for the travel are reportable gifts but not subject to the Act's gift limit.

Section 1090

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Michael Guina

[A-22-076](#)

Section 1090 prohibits Councilmember from taking part in the development agreement process, including preliminary decisions, between the City and a real estate developer based on her husband's employment with the law firm representing the developer before the City. However, the "rule of necessity" permits the remaining members of the City Council to enter the development agreement, as the City Council is the only government entity with the power to approve such an agreement.

Veronica Ramirez

[A-22-089](#)

Under Section 1090, Councilmember is prohibited from taking part in any decisions involving a contract between the City and developer because of his interest in the contract resulting from income paid by the developer to a subsidiary of the parent company of the Councilmember's employer. Councilmember is also prohibited from taking part in decisions related to establishing a district that will be an essential element of the contracts between the City and developer. However, the Councilmember's interest is remote and the City may enter the contract and establish the district so long as the Councilmember recuses himself from the decisions.

Carrie Purcell

[A-22-101](#)

Section 1090 does not prohibit City from entering contracts with firms related to the repair of city-owned infrastructure, despite having previously contracted with the firms for related work, where the initial contracts did not involve the firms advising on or engaging in public contracting on behalf of the City.

Maricela Marroquin

[A-22-103](#)

Official who owns a residence approximately 529 feet from undeveloped property, owned by the City, may not take part in decisions regarding the property and the proposed multi-unit development under the conflict of interest provisions of the Act because it is reasonable foreseeable the decisions will have a material financial effect on her residence. However, Section 1090 does not apply to an official merely because the official has a property or a business adjacent to or in close proximity to the project that is the subject of the contract.

Theresa Olivares

[I-22-111](#)

The Act does not prohibit Assistant City Manager from taking part in decisions concerning a needs assessment for city hall and police department facility because it is not reasonably foreseeable that her residence located three blocks from the project will experience substantially altered traffic levels, intensity of use, parking, and noise in the immediate neighborhood area, nor a market value change, under Regulation 18702.2(a)(8). For the same reasons, the Assistant City Manager would not have a prohibitory financial interest under Section 1090 in contracts related to the needs assessment.

Daryl F. Camp, Ed.D.[A-22-114](#)

School Board Official also employed by a 501(c)(3) nonprofit corporation has a remote interest in contract decisions involving the School Board and the nonprofit employer. (Section 1091(b)(1).) So long as the official discloses the interest to the board of trustees, the remote interest is noted in the board's official records, and the official recuses from decisions involving the contract, Section 1090 does not prohibit the School Board from making decisions on the contract.

*SEI***Roger Formanek**[A-22-113](#)

Members of a newly formed interagency committee are not required to file Statements of Economic Interest because they are not considered public officials under the Act, as the role of the Committee is solely advisory, and the Committee has no decision making power.