



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 and Commission Review
Date: June 30, 2022

The following advice letters have been issued since the May 27, 2022, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the July 21, 2022, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Behested Payments

Helen Homes Peak

[A-22-062](#)

Where a city council issued letters of support to federal officeholders to secure federal funding for a state university, no behested payment reports will be required if the funding is ultimately awarded because the payments would be made by a federal government agency for a governmental purpose.

Conflict of Interest

Diana Fazely

[A-22-046](#)

Decisions to amend resolutions designating street segments subject to a parking ordinance are not ministerial. However, officials with residential property interests may take part in a narrow street resolution and an overnight parking resolution where a significant segment of the public (over 15 percent) is affected by each decision and the officials, whose interests are similarly situated, are not uniquely affected. An official with a residential interest implicated by a bike lane resolution may also take part in the decision under the Limited Neighborhood Effects Rule (Regulation 18703(e)(3)) where the decision affects property in a specific location, will be made for public safety reasons, and City staff has identified that 657 residential parcels and 1140 residential units are within the same proximity to the street segment near the official's residence.

Richard D. Pio Roda

[A-22-050](#)

Vice mayor with town home just over 1,000 feet from property included in a project to revitalize waterfront district may not take part in the decisions as there is clear and convincing evidence that the project will affect the value of the official's residence. Under the information provided, the official's town home community is adjacent to the project and the official's town home is

located within 500 feet of a golf complex that is a central part of the waterfront district and includes two courses, one of which will be redesigned as part of the revitalization project. Based upon these facts, it is reasonably foreseeable the decision will have a material effect on the official's town home.

Thomas D. Jex[A-22-056](#)

Where an official's property is less than 500 feet from a large 78.3-acre parcel, subject to a decision to split the parcel, the applicable distance to determine the materiality threshold under Regulation 18702.2(b) is the distance to the distinct 10-acre parcels on which the proposed city hall and fire station will be located. Because these parcels are more than 1,000 feet from the official's property interest, the official may take part in the decisions as the financial effect on the official's real property interest is presumed not to be material and there is no evidence rebutting this presumption.

Todd R. Leishman[A-22-059](#)

It is reasonably foreseeable that decisions involving master plan for a municipal golf resort will have a material financial effect on councilmember's real property interest within 500 feet of the resort and the councilmember may not take part in those decisions. The councilmember is also generally prohibited from taking part in decisions relating to proposals that include projects located within 500 to 1,000 feet of her residence, or to those decisions that would apply to the golf resort as a whole, if the decisions will change her parcel's development or income producing potential, highest and best use, character, or market value.

Michael Donahue[A-22-063](#)

The Act does not prohibit an official from taking part in an agency decision to purchase real property near the land he leases for his mobile home, as the decision would not affect his personal finances. Based on the facts provided, the decision to purchase the vacant lot is necessitated to prevent litigation regarding the agency's encroachment on the lot and will maintain the status quo of the property absent further decisions by the agency. Accordingly, it is not foreseeable that the decision will affect the value of the mobile home or influence owners of mobile homes in the same vicinity, including the official, to sell or move.

Revolving Door**Sarah Lang**[A-22-037](#)

The local "one-year ban" prohibits a former county chief executive officer from advising and assisting a nonprofit organization, or appearing before its board, in any attempt to influence its decisions in administrative or legislative actions because one of the organization's board members is an official representing the former employer acting in his official capacity.

Statement of Economic Interest**David J. Karlin**[A-22-061](#)

The Act does not address the manner in which reports or statements must be made available, or how information appearing on a Statement of Economic Interest ("Form 700") must be

displayed, on an agency's website. Thus, it is permissible under the Act and current regulations for a local agency to continue redacting third party information on each Form 700 filed with the agency that are made available for public viewing through the agency's electronic portal. However, the agency must continue to provide paper copies of the Form 700s upon request to comply with the requirements of Section 81008.

Section 1090

Ryan T. Plotz

[A-22-015](#)

Section 1090 does not prohibit a board member from making or participating in making, or a conservation district from entering into, potential contracts with another public agency that employs the board member because the noninterest exception set forth in Section 1091.5(a)(9) applies, provided the contract does not involve the official's department. However, the board member has a remote interest in the agreements between the district and his public agency employer for any contracts involving energy efficiency services, as these agreements involve the department that employs him. Under Section 1090, the board member may not participate in these decisions, although the district may approve the contracts provided that the board member discloses his interest in the contracts to the district, the interest is noted in the district's official records, and the board member abstains from any participation in making or approving the contracts.

Mayor Scott Matas

[A-22-065](#)

Section 1090 prohibits mayor from taking part in decisions to amend an expiring development agreement between the city and developer given his employer secured the property management business in the first two villages of the project and will have more project management opportunities for the remaining villages if the agreement is extended. However, the rule of necessity applies to allow the city council to amend the agreement so long as the mayor abstains from any participation in his official capacity.