



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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Second Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

Conflict of Interest

Brian Hebert

[A-22-019](#)

The Act does not prohibit a public official from overseeing his employer's submission of an advisory report to the official's agency where the employer is also a state agency and does not constitute a source of income under the Act, and it is not reasonably foreseeable the underlying decisions would have a material financial effect on the official's personal finances.

Michelle Bushnell

[I-22-022](#)

A public official is prohibited from taking part in a decision that would reduce or repeal a tax applicable to the property she uses to cultivate commercial cannabis, despite the decision potentially affecting a significant segment of the public, where her permitted grow area is four times the size of the average permitted area.

Carrie Hunt

[A-22-025](#)

The Act prohibits a planning commissioner from taking part in decisions concerning an affordable housing project where her employer is actively bidding on construction jobs for home sites between 500 and 1000 feet from the project and her position requires her to find new project opportunities and secure new construction contracts. Because it is reasonably foreseeable that the project will have a material financial effect on her employer, and because of the impermissible nexus between the decisions and income she receives from her employer, she is disqualified under the Act from taking part in the decisions.

Rebecca Moon

[A-22-026](#)

Three city officials are prohibited from taking part in governmental decisions related to the approval of a Specific Plan because their residences are located less than 500 feet from the boundary of the plan area. The public generally exception does not apply because the residences, located within a similar proximity as the officials' residences to the boundary of the plan area, do not comprise a significant segment of the public. However, two other city officials may take part in the decisions because it is not reasonably

foreseeable that the decisions would have a material financial effect on their interest in their residences, which are located more than 500 and less than 1,000 feet from the boundary of the plan area.

Richard D. Pio Roda

[A-22-028](#)

It is reasonably foreseeable that a decision on a waterfront redevelopment project, which is intended to revitalize 75 acres of city's shoreline and marina, would have a material financial effect on a planning commissioner's real property interest within 1,000 feet of the project, and he may not take part in the decisions pertaining to the project.

Julian Miranda

[A-22-029](#)

A city official has a prohibitive financial interest in decisions involving facility improvement projects where the official's residential property is located within 500 feet of the projects. The official also has a prohibitive financial interest in decisions involving a library and recreation center where the official's property is located between 500 and 1,000 feet of the project, but directly on the route encircling the library and recreation center, and the decision may substantially alter traffic levels, intensity of use, parking, noise in the neighborhood. However, the official does not have a prohibitive financial interest in the city's decision to purchase property located over 1,000 feet from the official's property. Additionally, a second city official is not prohibited from taking part in decisions involving the library and recreation center, as well as the city park, where the official's residential property is located between 500 and 1,000 feet of the projects but also separated by three blocks of existing residential and commercial properties.

Lain MacMillian

[A-22-033](#)

A public official may not provide technical expertise in the form of analysis, conclusions, and recommendations relating to transportation for a portion of a city's specific plan where the official owns a home within 500 feet of the specific plan boundaries and the value of his property would likely be affected by the specific plan.

Michael Ng

[A-22-035](#)

A public official may take part in governmental decisions involving a former client of his law firm where the decision would not have a reasonably foreseeable financial effect on the law firm, as the law firm did not represent the former client in the matter before the official and the firm no longer has a relationship with the former client.

Gary B. Bell

[A-22-038](#)

The public generally exception applies to allow city councilmembers to take part in a decision to approve a development agreement and zoning change relating to a parcel of real property notwithstanding any financial effect on their respective interests. Based upon the facts provided, approximately 20 percent of the residential properties are located within a similar or closer distance than the officials' property and there is no indication that the decision will affect the officials' property uniquely in comparison to other residential properties.

Daniel S. Hentschke

[A-22-039](#)

A designated project manager or consultant representative that is employed by an independent contractor and hired by a public agency to conduct a competitive procurement process for franchised waste hauling services is not a "consultant" under the Act. Even though the project manager or consultant representative may engage in tasks that would be the same or similar to those done by the agency's staff, it will only be for a single short-term project.

Kimberly Hood

[A-22-042](#)

A county supervisor has a disqualifying financial interest in governmental decisions related to the approval of a residential development project consisting of 1,100 to 1,200 units, on approximately

234.29-acres of currently undeveloped agricultural land, because his residence is located less than 500 feet from the boundary of the project area. The public generally exception does not apply.

Brian Pierik

[A-22-043](#)

A city’s vice mayor may take part in decisions relating to the city’s budget that includes funds to pay the county for law enforcement services provided to the city because there are no facts suggesting those funds are used to pay for medical services provided by her employer to inmates at the county jail.

Michael Ng

[A-22-047](#)

The Act’s “nexus test” prohibits an official from taking part in decisions relating to the development of a proposed baseball stadium, where: (1) his employer’s general purposes and goals include promoting economic development in the bay area and generating revenue from and promoting the interests of dues-paying members; (2) the applicant is a dues-paying member of his employer organization; and (3) his employer has published three studies, commissioned by the applicant, detailing the local economic benefits of the proposed ballpark.

David E. Kendig

[A-22-051](#)

Lacking clear and convincing evidence that governmental decisions involving the development of a specific plan area would have no measurable financial impact on two city councilmembers’ respective residences located less than 500 feet from the specific plan area, the Act prohibits the officials from taking part in such decisions. However, per Regulation 18706, the city council—without the disqualified officials’ participation—could segment their decisions to allow the disqualified officials’ participation in the subsequent decisions that would not have a reasonably foreseeable, material financial effect on their economic interests.

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 materially 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

Daniel Dudak

[A-22-031](#)

Under the Act's "revolving door" provisions, the "one-year" ban does not prohibit a public official from communicating with his former department more than one year after leaving the department, nor does the "permanent ban" prohibit the official from serving as a paid consultant for a private party in a new proceeding that is related to, or grew out of, a prior proceeding in which the official participated.

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.

Section 1090

Derek P. Cole

[A-22-021](#)

Section 1090 prohibits a regional transportation planning agency board member, who attended a closed session meeting to discuss the recruitment of a permanent Executive Director and expressed interest in the position during the meeting, from entering into an employment agreement with the agency to be the permanent Executive Director even if he first resigns from his position as board member.

Celeste Stahl Brady

[A-22-027](#)

An official has a financial interest under the Act in a decision to select a waste hauler contract bid, where his mobile home is located on a lot space within 500 feet of a green waste recycling center operated by a subsidiary to one of the contract bidders as it is reasonably foreseeable that the potential increase in the facility's activity will impact the value of his personal property. To the extent Section 1090 may apply, the City may consider and enter the contract under the rule of necessity.

Andrew Morris

[A-22-040](#)

Section 1090 does not prohibit a town council from contracting with an economics consulting firm after a firm employee took part—in a personal, voluntary capacity and not as a “public official” or “officer”—in an advisory committee that made recommendations that indirectly prompted the town council to seek out such a contract.

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.

Commission Opinions

None.

Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act’s conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

None.

Legislation

[AB 975](#) (**Luz Rivas**) – Statements of economic interests and reimbursement for gifts.

Status: Set for hearing in the Senate Elections Committee on 6/13/22

Summary:

AB 975 would require certain public officials to file statements of economic interests using the Commission’s electronic filing system and would revise and recast other provisions relating to those statements.

The bill would also extend the time that an official may return, donate, or pay reimbursement for a gift from 30 days from the date of receipt of the gift to 30 days from the end of the calendar quarter in which the gift was received, and would codify related regulations. The bill would reduce the amount of time in which lobbyists, lobbying firms, and lobbyist employers must provide a beneficiary of a gift certain information about that gift from 30 days to 15 days following the end of each calendar quarter in which the gift was provided.

The bill would also permit a filing officer to retain a report or statement filed in a paper format as a copy on microfilm or other space-saving materials or as an electronic copy, as specified, without first retaining the report or statement on paper for two years.

FPPC Cost: Minor and absorbable

FPPC Position: No position