



# California Fair Political Practices Commission

August 20, 1992

Carl K. Newton  
Las Tunas Beach Geologic Hazard  
Abatement District  
Burke, Williams and Sorensen  
611 West Sixth Street, Suite 2500  
Los Angeles, CA 90017

Re: Your Request for Advice  
Our File No. A-92-558

Dear Mr. Newton:

This is in response to your letter requesting further advice concerning the members of the Las Tunas Beach Geologic Hazard Abatement District, specifically Geary Steffen and Donald Briscoe, concerning their duties under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> As we cautioned in our first letter (Newton Advice Letter, No. A-92-328), nothing in this letter should be construed to evaluate any conduct which may have already taken place.

#### QUESTION

May Las Tunas Beach Geologic Hazard Abatement District Governing Board Members Geary Steffen and Donald Briscoe participate in decisions regarding the eight steel sea walls existing along Las Tunas Beach?

#### CONCLUSION

Mr. Steffen and Mr. Briscoe may participate in decisions concerning the sea walls so long as the effect of the decisions on the members' interests is not distinguishable from the effect on the public generally.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

FACTS

The facts are substantially the same as in your first request.

The Las Tunas Beach Geological Hazard Abatement District (the "district") was formed in 1991 to consider measures to prevent beach erosion along Las Tunas Beach. The district is currently considering the disposition of eight steel sea walls (groins) that were built on Las Tunas Beach extending into the ocean.

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In your letter of July 27, 1992, you stated that there are currently 80 single-family dwellings in the jurisdiction, two multifamily dwellings of six units each, and one multifamily dwelling of four units. In our telephone conversation of July 27, 1992, you agreed that the approximate population of the district was 220, based on census figures for the City of Malibu in which the district is located.

It appears from the map you submitted with your first request that Mr. Steffen and Mr. Briscoe own property within 300 feet of a groin. Mr. Briscoe owns two lots. Mr. Steffen owns a single lot.

ANALYSIS

As discussed in the first letter, Section 87100 prohibits the members of the district from participating in a decision which will have a reasonably foreseeable material financial effect on the official or on a member of his or her immediate family, or on real property owned by the official. (Section 87103(b).) Because the members' real property is within 300 feet of the groins, they must disqualify themselves unless there is no financial effect on the value of their property interest. (Regulation 18702.3(a)(1).)

However, the members may participate if the effect on their economic interest is not distinguishable from the effect on the public generally. In our prior letter we stated:

While the members in question own property in close proximity to the various groins, since the groins serve to maintain the entire beach area in the jurisdiction, it appears that the effect will be substantially the same on all properties in the jurisdiction. You have provided no facts to suggest that the board members will be affected in a manner any different than any other person in the

jurisdiction of the district. The Commission does not act as the finder of fact in providing advice. (In re Oglesby (1975) 1 FPPC Ops. 71.)<sup>4</sup>

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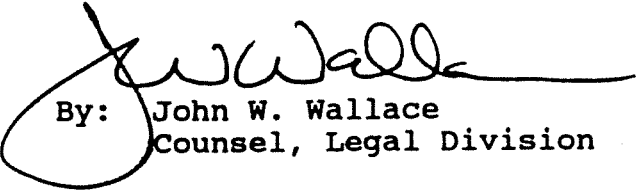
<sup>4</sup> We note that some members own more property than other members. This would not appear to alter this conclusion. However, please note that if any board member's property interests were substantially different from the interests of the other persons in the district, this conclusion would not apply.

Thus, it appears that the "public generally" exception would apply to the interests of Mr. Steffen and Mr. Briscoe. However, please be aware that the various cautionary notes in our first letter apply equally to the conclusion of this letter.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.<sup>2</sup>

Sincerely,

Scott Hallabrin  
Acting General Counsel

  
By: John W. Wallace  
Counsel, Legal Division

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<sup>2</sup> Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.