



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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May 24, 2024

Dawn Ortiz-Legg
District 3 Supervisor
San Luis Obispo County
1055 Monterey Street
San Luis Obispo, CA 93408

Re: Your Request for Advice
Our File No. A-24-048

Dear Ms. Ortiz- Legg:

This letter is in response to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the Act).¹ Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Does the Act prohibit you from participating in County governmental decisions and outreach activities regarding the Welcome Home Village project (the Project) when you own real property located 971 feet from the Project?

CONCLUSION

No. It is not reasonably foreseeable the decision regarding the Project will have a material effect on your property. Based on the facts presented including the distance to your parcel, the existing uses of properties near and adjacent to the Project site, and the buffering properties, it does not appear that the decisions would change the development potential, income producing potential, highest and best use, character, or market value of your residence. Therefore, you are not disqualified from taking part in the decisions.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS AS PRESENTED BY REQUESTER

You are a County Supervisor for the Third District in San Luis Obispo County (the County). The County has received a grant of approximately \$13.3 million dollars from the State of California to fund the design, construction and operation of an 80-bed supportive housing project consisting of 46 permanent supportive housing units and 34 interim supportive housing units. The County has developed an initial design for the Project and has named it the Welcome Home Village. The Project will initially target individuals experiencing homelessness who are currently located within the “Bob Jones Trail.” The Project will be operated by Good Samaritan services center. Similar housing projects have been developed in Santa Barbara.

The Project is currently proposed to be located on the County’s Health Agency Campus which is located at the corner of Johnson Avenue and Bishop Street. Currently, the site is used as a parking lot for County employees with approximately 150 parking spaces with about 90-100 vehicles parking there during normal business hours. The County’s Health Agency Campus has various uses including the County’s Probation Department, Public Health Department, and Psychiatric Health Facility. More specifically, the various uses of the campus include drug and alcohol services, a DUI program, behavioral health outpatient services, and a 16-bed licensed Psychiatric Health Facility. Immediately surrounding the campus are professional offices including a 23-bed nursing home and another supportive housing project called Bishop Street Studios, which consists of 33 units of supportive housing for adults living with mental illness. Beyond that, the neighborhood consists primarily of single-family residences, including your neighborhood.

Your property is located approximately 971 feet from the Project “as the crow flies.” Bisecting your property and the Project are a row of medical buildings, two residential roads and 3 rows of residential housing.

If approved, Project construction would displace employee parking. The County is in the process of identifying alternative off-street replacement parking. The County has informally secured 50 offsite parking spaces at a local church that is located down the street approximately 800 feet away. It is anticipated that the County will be able to secure sufficient off-street parking for its employees by the time construction of the Project commences; however, no arrangements have been formalized. The proposed Project will only include 3 parking spaces, including 2 ADA spaces. It is anticipated that individuals living at the Project will not have vehicles and will rely primarily on public transportation.

The County has also received comments from the surrounding neighborhood raising concerns about parking impacts and having a housing project for homeless individuals. The common themes of these comments include concerns about increased crime, trash, safety and increased vagrancy and impacts to property values.

ANALYSIS

A. The Act.

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the public official’s official

position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.” The financial interests that may give rise to an official’s disqualifying conflict of interest under the Act are set forth in Section 87103 and include an interest in any real property in which the official has an interest of \$2,000 or more. (Section 87103(b).) You have identified a real property interest in your residence located within 971 feet of the Project site.

B. Foreseeability and Materiality

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is explicitly involved in the decision. A financial interest is explicitly involved if the interests is a named party in, or the subject of, a governmental decision before the official or the official’s agency including any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6). (Regulation 18701(a).) Regarding financial interests not explicitly involved in a decision, as is the case here, a financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable. (Regulation 18701(b).)

Applicable to the facts here, the reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel’s:

- (A) Development potential;
- (B) Income producing potential;
- (C) Highest and best use;
- (D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or
- (E) Market value.

(Regulation 18702.2(a)(8).)

In this case, the facts provided indicate that it is not reasonably foreseeable the Project would have a material financial effect on your real property. The Project includes the construction of an 80-bed supportive housing project consisting of 46 permanent supportive housing units and 34 interim supportive housing units. The Project site is currently a parking lot for County employees with approximately 150 parking spaces. There is no indication the Project would affect the development potential, income producing potential or highest and best use of your real property, which is located in a residential neighborhood 971 feet from the Project. The facts also indicate that the Project would not change the character of your real property. Although the Project could impact nearby traffic levels and parking, the facts indicate that these impacts would primarily be limited to the construction phase of the Project since the County is taking steps to secure parking for the displaced County employee parking lot and the Project itself would require only 3 parking spaces. Moreover, based on the map you provided, your residence is situated on a residential road, not on either of the main roads where the Project would be located at the corner of Johnson Avenue and

Bishop Street. These facts indicate that any parking concerns would not extend to your residence located within 971 feet of the Project site. Thus, any impacts would largely be temporary and mitigated by the distance and buffers between the Project site and your real property.

The remaining question is whether the Project would change your real property's market value. While residents in the surrounding neighborhood have raised concerns about adverse impacts on property values, there are multiple factors that indicate that the decision will not have an effect on your parcel. The facts provided indicate that the existing facilities adjacent to the proposed Project site currently include public health services at the County Health Agency Campus, which includes drug and alcohol services, a DUI program, behavioral health outpatient services, and a 16-bed licensed Psychiatric Health Facility. Also adjacent are a 23-bed nursing home and Bishop Street Studios which provides 33 units of supported housing for adults living with a mental illness. Thus, the services provided by existing facilities in the area would be similar to services provided by the proposed homeless shelter. Also, the map you provided shows your residence is set back from the Project by a row of medical buildings, 2 rows of residential streets, and 3 rows of residential housing. Your property, therefore, is buffered by existing facilities, residential streets, single-family homes, is 971 feet from the Project site, and is not situated on either of the main roads that would be used to access the Project site. The distance and buffers between the Project site and your property and the similar nature of existing facilities to a homeless shelter indicate that decisions regarding the Project would not impact the market value of your real property.

For the above reasons, it is not reasonably foreseeable the Project would have a material financial effect on your real property. Therefore, you are not prohibited from taking part in governmental decisions regarding the Project based on your real property interest.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

/s/ John M. Feser Jr.

By: John M. Feser Jr.
Senior Counsel, Legal Division

JF:aja:bc