



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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May 27, 2025

Rachel Van Mullem  
County Counsel  
Santa Barbara County  
105 E. Anapamu Street, Suite 201  
Santa Barbara, CA 93101

Re: Your Request for Formal Advice  
**Our File No. A-25-043**

Dear Ms. Van Mullem:

This letter responds to your request for advice on behalf of Santa Barbara County Supervisor Roy Lee regarding the conflict of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup>

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.

## QUESTIONS

1. Under the Act, may Supervisor Lee take part in governmental decisions regarding implementing and enforcing regulations applicable to sidewalk and roadside food vendors, given that he has business and leasehold interests related to his ownership of a local brick-and-mortar restaurant?

2. Under the Act, may Supervisor Lee take part in a governmental decision regarding a County Environmental Health Service Department (“EHS”) fee for retail food facilities health permit assessed on restaurants countywide, which as proposed, would result in a \$19 decrease in the annual permit fee applicable to Supervisor Lee’s restaurant?

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<sup>1</sup> 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.

## CONCLUSIONS

1. Supervisor Lee does not have a conflict of interest in decisions relating to the establishment of regulations applicable to the sidewalk and roadside food vendors because the specific decisions identified, clarifying that general health and safety regulations applicable to brick-and-mortar restaurants apply to mobile food vendors, will not have a material financial effect on his interests in his business or real property.<sup>2</sup>

2. Supervisor Lee does not have a conflict of interest in the decision relating to the EHS fee applicable to his restaurant, which would result in a \$19 decrease in the cost of an annual retail food facility health permit, because the decision will not have a material financial effect on his interests in his business or real property.

## FACTS AS PRESENTED BY REQUESTER

Supervisor Lee was recently elected as the First District Supervisor for the County of Santa Barbara. Supervisor Lee is part owner of Uncle Chen, a family-owned and operated brick-and-mortar restaurant in the City of Carpinteria. You have also confirmed that he has a greater than 10 percent ownership interest in the business and that the restaurant building is subject to a long-term lease.

The Board of Supervisors is considering imposing regulations and enforcement on “street vendors.”<sup>3</sup> Unlawful sidewalk and roadside food vendors have caused significant problems throughout the County, including public health and safety risks, unsanitary conditions, and obstructions to pedestrian pathways. In addition, the Board of Supervisors will consider adjusting the County’s Environmental Health Services Department schedule of fees which includes fees charged to food service providers for annual permits, etc.

### *Street Vendor Regulation/Enforcement.*

Unlawful sidewalk and roadside food vending has caused significant challenges for local jurisdictions, including Santa Barbara County. These unregulated operations create public health and safety risks, such as foodborne illnesses, unsanitary conditions, and obstructions to pedestrian pathways, often in violation of ADA standards. Furthermore, these activities create unfair

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<sup>2</sup> You indicate that the exact limitations and regulations on mobile food vendors have not yet been identified. However, you do identify multiple specific proposals, which would merely clarify that general health and safety regulations applicable to brick-and-mortar restaurants also apply to mobile food vendors street vendors including requirements for hours of operation, sanitation, disability access, permitting, and reporting. Accordingly, we caution that our advice is limited to those specific proposals identified and that the application of the Act’s conflict of interest provisions is a fact specific determination. Supervisor Lee should seek additional advice to the extent restrictions or regulations beyond those specifically identified will be considered.

<sup>3</sup> In a follow up email, you provided clarification as to the specific types of vendors at issue. “Sidewalk vendor” means a person who sells food or merchandise from a pushcart, stand, display, pedal driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path. “Compact mobile food operation” means a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance. Food trucks are separately regulated and not at issue.

competition for lawful businesses. The proliferation of unpermitted vending highlights gaps in enforcement, exacerbated by state laws such as Senate Bill (SB) 946 (2018) and SB 972 (2022), which limit the tools local governments can use to regulate these activities. Despite SB 972's attempt to modernize food safety regulations and simplify the permitting process for vendors, many unlicensed operators bypass compliance due to minimal enforcement penalties. These challenges necessitate a Countywide coordinated response to protect public health, ensure fairness for lawful vendors, and promote compliance with updated regulations.

The Board of Supervisors will consider regulation and enforcement options for sidewalk and roadside food vendors. The type of regulation or enforcement is unknown at this time but could include restrictions on vendors serving food on sidewalks in both the incorporated and unincorporated areas of the County.

The County has formed a taskforce for County staff to conduct a comprehensive review of the County Code for the Board's consideration of regulating, including, but not limited to, adopting additional time, place, and manner restrictions on sidewalk vendors that are directly related to objective health, safety, or welfare concerns, including:

- Limiting hours of operation that are not unduly restrictive and provided that, in nonresidential areas, any limitations are not more restrictive than limitations on hours of operation for other business in that area;
- Requirement to maintain sanitary conditions;
- Requirement to ensure compliance with the Americans with Disabilities Act of 1990 and any other disability access standards;
- Requirement to obtain a local permit or business license;
- Requirement to possess any additional required state or local agency licenses or permits, such as a valid California Department of Tax and Fee Administration seller's permit;
- Requirement to comply with any other generally applicable laws; and
- Requiring the vendor to submit to the County information about their operations in accordance with Government Code Section 51038(c)(8).

While the Board typically only regulates the unincorporated area of the County, on March 6<sup>th</sup>, 2025, the Board formed a regional taskforce to address unlawful sidewalk and roadside food vendors. You state that, out of an abundance of caution, Supervisor Lee recused himself from participating and voting on the formation of the taskforce on March 6<sup>th</sup>.

Accordingly, County staff is working with the local cities, including the City of Santa Barbara and Santa Maria, to create a unified approach that addresses issues with sidewalk and roadside vendors in both the incorporated and unincorporated areas of the County. The City of Carpinteria is not currently included in this taskforce but could be in the future.

*Environmental Health Services Fees.*

The County's EHS is in the process of amending the fees it collects for the services it performs, which includes fees for food facilities.<sup>4</sup> Uncle Chen's restaurant is and will continue to be subject to an EHS fee for food facilities. Specifically, the fee applicable to Uncle Chen's Restaurant is the annual retail food facilities health permit for facilities 1,501-3,000 square feet in size. This fee is currently \$842, and the proposed new fee will be \$823.

EHS performs its services Countywide, including in the incorporated areas of the County (i.e. the City of Carpinteria), and therefore these fees apply Countywide, including in the incorporated areas of the County. All restaurants in the County, including Uncle Chen's restaurant, must pay EHS fees when seeking permits from EHS.

**ANALYSIS**

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 official's position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest." "A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family," or on certain specified economic interests. (Section 87103.)

Among those specified economic interests are:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.
- (d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(Section 87103.)

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<sup>4</sup> Your request noted that a total of 72 fees are proposed to increase, 26 are decreasing, while 7 fees will remain unchanged. Additionally, 8 new fees are proposed. However, in a follow up email, you confirmed that the only EHS fee applicable to Supervisor Lee's interests is the annual retail food facility health permit. You also note that the Board voted on the EHS fee item on May 13<sup>th</sup>, but the particular fee applicable to Supervisor Lee's business was pulled out to be discussed separately after it is determined whether he will be able to participate.

Supervisor Lee has interests in his restaurant, as both a source of income interest and business entity. As the owner of the restaurant, he also has a property interest in the property leased by the restaurant.<sup>5</sup>

### *Foreseeability and Materiality*

Foreseeability standards vary depending on whether an interest is explicitly involved in a governmental decision. A financial effect is presumed to be reasonably foreseeable when it is explicitly involved in a decision. Financial interests that are explicitly involved include an interest that is a named party in, or subject of, a government decision. “A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).” (Regulation 18701(a).)<sup>6</sup>

Where an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, “[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 18702.1 provides the standards for determining whether a financial effect on a business entity’s interest is considered material. In relevant part, where the business entity interest is not explicitly involved in a governmental decision, the reasonably foreseeable financial effect of a decision on an official’s financial interest in a business entity is material where the decision may result in an increase or decrease of the entity’s annual gross revenues, or the value of the entity’s assets or liabilities, in an amount equal to or greater than \$1,000,000, or five percent of the entity’s annual gross revenues and at least \$10,000. (Regulations 18702.1(a)(2)(A) and (B), 18702.3(a)(4).) The reasonably foreseeable financial effect of a governmental decision on an official’s business entity interest is also material where the decision may cause the entity to incur, avoid, reduce, or eliminate expenses equal to or greater than \$250,000, or one percent of the entity’s annual gross revenues and at least \$2,500. (Regulation 18702.1(a)(3)(B).)<sup>7</sup>

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<sup>5</sup> As the owner of the restaurant, Supervisor Lee also has a source of income interest in any client or customer that has paid or promised \$500 or more to Uncle Chen’s restaurant within the 12 months preceding the relevant governmental decision. As you have not provided any facts regarding any clients or customers, we do not further analyze this interest. As a general matter, however, we note that a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.” (Section 87103.5(a); see also Regulation 18702.3(c).)

<sup>6</sup> Regulation 18702.2(a)(1)-(6) is not applicable to a leasehold interest.

<sup>7</sup> In addition, a financial effect on a business entity’s interest is considered material where the official knows or has reason to know that the entity has an interest in real property and the property is a named party in, or the subject of,

Separate from any potential financial effect on a business interest, the reasonably foreseeable financial effects of a governmental decision on any real property in which a governmental official has a leasehold interest, as the lessee of the property, is material only if the governmental decision will:

- (1) Change the termination date of the lease;
- (2) Increase or decrease the potential rental value of the property;
- (3) Change the official's actual or legally allowable use of the property; or
- (4) Impact the official's use and enjoyment of the property.

(Regulation 18702.3(c).)

Lastly, under Regulation 18702(b), the financial effect of a governmental decision is not material if it is nominal, inconsequential, or insignificant.

### **Street Vendor Regulation/Enforcement**

Sidewalk and roadside food vending in Santa Barbara County is currently unregulated. The Board of Supervisors will consider a proposal to implement regulations to protect public health, ensure fairness for lawful vendors, and promote compliance with updated regulations. You also state that unlawful sidewalk and roadside food vending creates unfair competition for lawful businesses. Sidewalk and roadside food vending, where food is sold from a pushcart or stand on a public sidewalk, is a different style of food service compared to the brick-and-mortar restaurant owned by Supervisor Lee; the new ordinance would implement regulations and allow a type of food vending that is currently unlawful. The proposed ordinance could include restrictions on vendors serving food on sidewalks in both the incorporated and unincorporated areas of the County, including the City of Carpinteria. Based on these facts, we examine whether it is reasonably foreseeable the specific proposals identified may have a material financial effect on Supervisor Lee's interests in his business as both a business entity and source of income. Under Regulation 18702.1(a), Supervisor Lee's business is not the subject of the decision or a named party in the decision. The decisions at issue are specific to street vendors, and would not extend to restaurants. Therefore, Supervisor Lee's financial interests in his restaurant as a source of income or business entity are not explicitly involved in the decisions pertaining to street vendor regulation.

Moreover, it does not appear reasonably foreseeable that any financial effect on Supervisor Lee's restaurant from the specifically identified proposals would be material. Regulation 18702.1 provides the materiality standards for business entity interests, including those that are a source of income (Regulation 18702.3(a)(4).) Under Regulation 18702.1, a financial effect upon a business entity is material if the governmental decision would contribute to a change in the official's business entity's revenues, assets, or expenses, as specified above. It does not appear that the decision on Countywide changes to regulate sidewalk and roadside food vending would create enough competition to contribute to a change in the value of Supervisor Lee's restaurant because sidewalk and roadside food vending are different from the brick-and-mortar restaurant owned by Supervisor Lee, and the proposed regulations relate to the application of various health, safety, and licensing requirements to a class of compact mobile food vendors (e.g., those operating from a

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the decision under Regulations 18701(a) and 18702.2(a)(1) through (6), or there is clear and convincing evidence the decision would have a substantial effect on the property.

pushcart or stand, as opposed to a brick-and-mortar building or food truck) that already operate throughout the County without regulation. Moreover, the terms of the proposal you have identified merely clarify that general health, safety, ADA, and other business regulations—regulations that already apply to existing restaurants—will also apply to mobile food vendors. Based on the nature of the specifically identified proposals, which do not impose any more stringent requirements than those imposed on existing brick-and-mortar restaurants, we do not find it reasonably foreseeable that these specific proposals would result in sufficient changes in competition to result in a material effect on existing restaurants.

Moreover, for the same reasons, there is no indication of a financial effect on the leased real property out of which the business operates. These regulations will only apply to vendors who operate from pushcarts or stands and will not include brick-and-mortar restaurants such as Uncle Chen's. There is no indication that the decisions regarding mobile food vendor regulations would change the termination date of the lease, increase or decrease the rental value of the property, change the legally allowable use of the property, or impact the use and enjoyment of the property. Therefore, Supervisor Lee is not prohibited from taking part in the decisions relating to street vendor regulation and enforcement.

### **Environmental Health Services Fees**

The County will also be considering an amendment to the annual retail food facility health permit, the EHS fee applicable to Supervisor Lee's interests. Based on the nature of the fee described, the fee applies to the operation of the business entity, and there is no indication that the fee applies to the parcel itself. For purposes of the business interests, Supervisor Lee's restaurant is not the subject of the decision or a named party in the decision. Simply having an interest in a business that the amended fee structure impacts does not render the business interest "explicitly involved" because it is not the named party in or subject of the decision, which will broadly apply to all restaurants within the same classification. Therefore, Supervisor Lee's financial interests in his restaurant as a source of income or business entity are not explicitly involved in the decision pertaining to the EHS fee. (*See Kokotaylo Advice Letter, No. A-24-046a.*)

As noted above, the financial effect of a governmental decision is not material if it is nominal, inconsequential, or insignificant. To the extent the County considers only the proposed \$19 decrease in the cost of an annual retail food facility health permit with no discussion of changing this proposed fee, the financial effect of the governmental decisions regarding fee changes would be nominal, inconsequential, or insignificant and, therefore, not material. Moreover, to the extent the County considers further changes to the fee, it is not reasonably foreseeable that any such change in fees would be significant enough to satisfy the materiality standards established under Regulation 18702.1, assuming that the proposed changes would not change the fee by \$2,500 or more, the minimum materiality threshold for a business entity not explicitly involved in the decision.

With respect to Supervisor Lee's leasehold interest of the restaurant property, there is no indication that the decision concerning a proposed \$19 decrease in the cost of an annual retail food facility health permit, applicable to the business, would change the termination date of the lease, increase or decrease the rental value of the property, change the legally allowable use of the property, or impact the use and enjoyment of the property. Therefore, under the Act, Supervisor Lee is not prohibited from taking part in the decisions relating to the EHS retail food facility fee.

If you have other questions on this matter, please contact me at [znorton@fppc.ca.gov](mailto:znorton@fppc.ca.gov).

Sincerely,

Dave Bainbridge  
General Counsel

**Zachary W. Norton**

By: Zachary W. Norton  
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