



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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November 4, 2025

Kristopher J. Kokotaylo
City Attorney, City of Newark.
409 13th St., Suite 600
Oakland, CA 94612

Re: Your Request for Advice
Our File No. A-25-130

Dear Mr. Kokotaylo:

This letter responds to your request for advice on behalf of Newark Vice Mayor Eve Marie Little and City Council Member Matthew Jorgens 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

Under the Act, may Council Member Jorgens and Vice Mayor Little take part in City Council decisions pertaining to the adoption of a Rent Review Ordinance and a “Just Cause” Ordinance—both relating to landlord-tenant rights—given that both officials rent residential property in the City?

CONCLUSION

Yes, although both officials rent residential property, even if their respective interests would experience a reasonably foreseeable, material financial effect, the “public generally exception” permits their participation because the facts provided establish that a significant segment of the

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.

public is affected, and the effect on the official's financial interest is not unique compared to the effect on the significant segment.

FACTS AS PRESENTED BY REQUESTER

The City Council of the City of Newark is set to consider the adoption of a Rent Review Ordinance and Residential Landlord and Tenant Relations Ordinance ("Just Cause Ordinance") at a future City Council meeting. The Rent Review Ordinance and the Just Cause Ordinance are meant to protect tenants from excessive and unreasonable rent increases if they lease any residential property with the City of Newark and provide additional protections from eviction without "just cause" for certain properties in the City.

Rent Review Ordinance

The Rent Review Ordinance protects all residential tenants within the City from excessive and unreasonable rent increases by providing a neutral forum to resolve rent increase disputes. The ordinance offers a standardized process for reviewing increases, including conciliation and mediation, in efforts to foster communications and promote equitable outcomes for both parties.

The ordinance applies to all "residential property" within the City, defined as:

[A]ny housing unit offered for rent or lease in the City. Mobile homes are subject to this chapter only if a tenant rents the mobile housing unit itself. Residential property shall exclude any housing unit that is subject to a recorded regulatory agreement that requires that the housing unit be rented to a tenant at specified income levels as defined by the regulatory agreement, hotels, and junior accessory dwelling units as defined by state law.

Under the proposed Rent Review Ordinance, a landlord must provide a tenant with at least 30 days' written notice prior to a rent increase of 10 percent or less and at least 90 days' notice of a rent increase of greater than 10 percent. A landlord must also, at the time of notice of rent increase, provide notice of the tenant's option to participate in the City's rent review procedure before it may enforce or accept any increase in rent. A tenant is automatically entitled to the rent review procedure where the proposed rent increase: 1) will increase rent more than 5 percent above the base rent paid in the preceding month; or 2) follows one or more prior rent increases within the past year where the combined rent increases exceed 5 percent of the base rent paid in the preceding month.

The rent review consists of conciliation first and, if required, mediation. The parties may first seek redress through conciliation with the City's Director of Community Development or designee. There, the parties will have an opportunity to provide all relevant information, exchange proposals, reasonably consider proposals by opposite parties, and engage in discussion(s) regarding the rent increase and issues related to the rent increase. If conciliation is unsuccessful, the parties may then seek redress through the City Manager for mediation before a neutral hearing officer. Failure of the tenant to participate in conciliation or mediation precludes the tenant from seeking remedies under the ordinance. Failure of the landlord to appear without good cause results in the rent increase being deemed void.

If the parties agree to a resolution during the conciliation or mediation process, they may formalize the agreement in a standard form signed by both parties. The City is not a party to such an agreement, nor does the City assume any responsibility for enforcement of its terms.

Residential Landlord and Tenant Relations Ordinance (“Just Cause Ordinance”)

The purpose of the Just Cause Ordinance is to regulate relations between residential landlords and tenants and to protect tenants from arbitrary, discriminatory, or retaliatory evictions.

The ordinance applies to all “rental unit[s]” or “residential real property” within the City defined as:

[A]ny unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant. A rental unit includes a single-family home.

The provisions of the Just Cause Ordinance cannot be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a tenant’s substantive or procedural rights under the ordinance are deemed in contravention to public policy, unenforceable, and void. The ordinance, as proposed, imposes “just cause” eviction restrictions on all residential rental properties. These restrictions prohibit landlords from evicting tenants unless specific conditions exist.

First, no landlord may terminate a residential tenancy of a rental unit, recover possession of a rental unit or otherwise endeavor to recover possession of a rental unit in the City that has been continuously and lawfully occupied by a tenant for 12 months or more unless the landlord can demonstrate all of the following:

- 1) The landlord possesses a valid City business license and has properly registered the property as a rental unit;
- 2) The tenant has been properly served with a notice of tenant rights as specified under the ordinance; and
- 3) The landlord has not accepted and will not accept rent or any other consideration in return for the continued use of the rental unit beyond the term of the terminated tenancy.

Second, the landlord must establish a valid, legally recognized reason for terminating a tenancy, such as nonpayment of rent or a material breach of the lease, as specified under the statute. This includes either “at fault just cause” or “no fault just cause,” as specified under the ordinance.

Relevant here, the Ordinance does not apply to the following properties:

- 4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
- 5) Single-family owner-occupied residences, including both of the following:
 - (a) A residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.
 - (b) A mobile home. (Section 5.45.040 (D)(4))

An owner's failure to comply with the Just Cause Ordinance shall render the termination notice void. Additionally, the Just Cause Ordinance prohibits landlords from engaging in harassment, retaliatory, or other prohibited activities.

The Anti-Harassment and other prohibited activities mirror many of California's statutory requirements and create a private right of action to enforce all terms, rights, and obligations under the local ordinances.

Council Member Jorgens' Residence

Council Member Jorgens rents an apartment unit subject to the terms of a written yearly lease in a multi-unit apartment complex built in and around 1985 or 1986. He is the sole tenant of his unit and has resided there since April 2023. The property is owned and operated by a commercial landlord corporation. Council Member Jorgens' yearly rent exceeds \$2,000 annually.

Vice Mayor Little's Residence

Vice Mayor Little has leased her residence on a month-to-month basis for the past eight years. The property, a single-family residence, is owner-occupied and Vice Mayor Little leases no more than two bedrooms. Vice Mayor Little pays a monthly rent that exceeds \$2,000 annually. Vice Mayor Little's rental term is not specified in a written or verbal lease.

Additional Information

The jurisdiction of both Vice Mayor Little and Council Member Jorgens is city-wide, as they are both elected at large. Per the latest census data and City records, approximately 30 percent of all residential properties in the City are rental units.

In a follow-up email, you provided copies of the ordinances and confirmed that the limited number of properties excluded from the ordinances, as described above, do not comprise a significant portion of the residential rental properties. Taking those exemptions into account, residential rental properties subject to the ordinances still constitute more than 25 percent of the jurisdiction's residential real properties.

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.) Those economic interests include “[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.” (Section 87103(b).) The term “interest in real property” does not include the interest of a tenant in a periodic tenancy of one month or less. (Regulation 18233.)

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, “[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. 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).”

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.”

Council Member Jorgen, as a tenant on an annual lease, has a leasehold interest in his residence. As a month-to-month tenant, Vice Mayor Little does not have a real property interest in her residence. Both officials have an economic interest in their respective personal finances.

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 18702.2(c).)

Under Regulation 18702.5, a governmental decision’s reasonably foreseeable financial effect on a public official’s financial interest in personal finances or those of immediate family, also

referred to as a “personal financial effect,” is material if the decision may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

While it is possible that the Rent Review Ordinance and Just Cause Ordinance would have a reasonably foreseeable, material financial effect on Council Member Jorgen and Vice Mayor Little under the standards described above, it is unnecessary to analyze and reach conclusions on those issues because, in any case, the public generally exception would apply to allow the officials' participation, as discussed below.

Public Generally

When an official has a disqualifying financial interest under the Act, an official may still participate under the “public generally” exception. Regulation 18703(a) permits a public official to take part in a governmental decision under the Act that affects one or more of the official's interests if the decision's financial effect on the interest is indistinguishable from its effect on the public generally. This standard is met if the official establishes that a significant segment of the public is affected, and the effect on the official's financial interest is not unique compared to the effect on the significant segment. (Regulation 18703(a).)

Where the only interest the official has is in their primary residence, a significant segment of the public includes at least 15 percent of residential real property within the official's jurisdiction. (Regulation 18703(b)(2).) Otherwise, a significant segment of the public is at least 25 percent of all businesses, real property, or individuals within the official's jurisdiction. A unique effect on an official's interest includes a disproportionate effect on the development potential or use of the official's real property, or on the income producing potential of the official's real property or business entity; or its proximity to the project that is the subject of the decision.

With a limited number of exceptions, both ordinances apply to all residential rental units in the City. Per the latest census data and City records, approximately 30 percent of all residential properties in the City are rental units. You have also confirmed that, even excluding the rental properties that meet the specified exceptions, residential rental properties subject to the ordinances still constitute more than 25 percent of the jurisdiction's residential real properties. Consequently, the Ordinances would affect a significant segment of the public. Additionally, there is nothing in the facts that indicates either Councilmember Jorgens or Vice Mayor Little would experience a unique effect on their respective economic interest(s) as a result of either Ordinance. Based on the facts provided, the public generally exception applies and both officials may take part in the governmental decisions pertaining to the Ordinances.

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

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

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