CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811 • (916) 322-5660

November 4, 2025

A. Patrick Munoz
Rutan & Tucker, LLP
18575 Jamboree Rd., 9th Floor
Irvine, CA 92612

Re: Your Request for Advice
Our File No. A-25-131

Dear Mr. Munoz:

This letter responds to your request for advice on behalf of City of Twentynine Palms Councilmember Octavious Scott regarding the Political Reform Act (the "Act") and Government Code Section 1090, et seq.[1] Please note that we are only providing advice under the Act and Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest.

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.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General's Office and the San Bernardino County District Attorney's Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice "is not admissible in a criminal proceeding against any individual other than the requestor." (See Section 1097.1(c)(5).)

QUESTION

Given that Councilmember Scott owns a home that was gifted to him by his mother, who obtained the home with financial and other assistance from a nonprofit organization, the Coachella Valley Housing Coalition ("CVHC") in the 1990s, may Councilmember Scott participate in decisions related to the City Council's possible participation in housing related

[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.

projects with CVHC, which might potentially include Council decisions to provide land or funds to CVHC to support its programs?

CONCLUSION

Yes. Councilmember Scott's ownership of a home does not create an interest under either the Act or Section 1090 in CVHC, due to the assistance it provided to his mother when she originally constructed the home, and he is not prohibited from participating in Council decisions involving projects with CVHC.

FACTS AS PRESENTED BY REQUESTER

The CVHC is a nonprofit organization that helps provide housing to low-income residents in the Coachella Valley through several different programs. It helps low-income residents own single-family homes by assisting with the financing and building of homes, owns and operates several multi-family apartment complexes for low-income residents, and provides medical and educational services to its low-income residents. CVHC has been in operation since the early 90s and receives its funding from both public and private sources.

Councilmember Scott owns a single-family residence in Palm Springs, about 50 miles from Twentynine Palms. Councilmember Scott received title to the home from his mother in connection with her estate planning prior to her passing in 2009. In a follow-up email, you stated that the Councilmember's mother signed a quit-claim deed and gave him the property just prior to her death. The Councilmember's mother obtained the home through CVHC's "self-help" program in the 1990s; that is, his mother built the home herself with financial and development assistance from CVHC. In a follow-up email, you stated that CVHC provides land, materials, and volunteer labor, and oversees construction, but that the proposed owner has to put in sweat equity by assisting with construction. CVHC did not provide a loan, and no agreements with CVHC are in effect.

In a follow-up email, you also stated that Councilmember Scott's mother obtained a first mortgage from Roundpoint Mortgage and a second mortgage from the California Department of Housing and Community Development. CVHC did not provide a loan or any financing for the home. The Councilmember subsequently refinanced the first mortgage in his name, and paid off the second mortgage from the California Department of Housing and Community Development in full in 2020. He currently has a mortgage on the property, not associated with CVHC, through a commercial lender on the same terms that would be available to the general public. The home is not subject to any deed or other transfer restrictions.

Councilmember Scott does not presently own any property in Twentynine Palms (or within two miles of the border of Twentynine Palms) that is associated in any way with CVHC nor does he, or any of his family members, receive any income from CVHC.

Councilmember Scott desires to bring forward agenda items to enable the City Council to engage in discussions about funding projects with CVHC, including by possibly contributing funds or land.

ANALYSIS

The Act

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103.

Potentially relevant to your inquiry, these interests include an interest in

- Any real property in which the official has an interest of $2,000 or more. (Section 87103(b).)

- 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. (Section 87103(c))

- Any donor of, or an intermediary or agent for a donor of, a gift or gifts aggregating $630 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Section 87103(e); Regulation 18700(c)(6)(E).)

- The official's personal finances, including those of their immediate family. (Section 87103; Regulation 18702.5.) This is commonly referred to as the "personal financial effects" rule. (Section 87103.)

Section 82033 of the Act defines "interest in real property" to include "any leasehold, beneficial or ownership interest, or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly, or beneficially by the public official . . . if the fair market value of the interest is two thousand dollars ($2,000) or more." The Act defines the term "jurisdiction" to mean "with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction." (Section 82035.)

Councilmember Scott's Palm Springs property is located over 50 miles away in an entirely different City, and the property no longer has any financial or other connection to CVHC. CVHC did not provide a loan, but provided other assistance to the Councilmember's mother when she constructed the house in the 1990s. Based on these facts, Councilmember Scott does not have a financial interest in the Palm Springs property for the purposes of the Act, and he is not prohibited from proposing or otherwise taking part in the decisions involving CVHC.

Section 1090

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569.) Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety." (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.)

Although Section 1090 does not specifically define the term "financial interest," case law and Attorney General opinions state that prohibited financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain. (*People v. Vallerga* (1977) 67 Cal.App.3d 847, 867, fn. 5; *Terry v. Bender* (1956) 143 Cal.App.2d 198, 207-208; 85 Ops.Cal.Atty.Gen. 34, 36-38 (2002); 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).) Officials are deemed to have a financial interest in a contract if they might profit from it in any way. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.)

Past Attorney General Opinions have found that absent a financial relationship between adult relatives (such as a legal obligation to support an adult child, a parent's incapacity, or a shared ownership interest) the officer does not have a "financial interest" under Section 1090 when the contract involves an official's adult relative.[2]

Under the facts provided, Councilmember Scott did not have a financial interest in his mother's residence prior to receiving title to the home from his mother in connection with her estate planning prior to her passing in 2009. CVHC provided assistance to the Councilmember's mother when she constructed the house in the 1990s, prior to the time the Councilmember received title to the property. CVHC did not provide a loan or any financing for the home, and there are no agreements with CVHC in effect. Therefore, Councilmember Scott does not have a financial interest in the decisions involving a City contract with CVHC under Section 1090 and he is not prohibited from taking part in contracts with CVHC.

[2] *92 Ops. Cal. Atty. Gen. 19, (2009)* [official did not have a financial interest under Section 1090 in agency's loan to son's solely-held corporation despite parent-adult child relationship and shared apartment rental where there were no circumstances showing a legal duty for either party to support the other]; and citing 28 Ops.Cal.Atty.Gen. 168, 169 (1956) [family relationship between county supervisor and his adult brother did not result in a violation of Section 1090 where the brother sold automobiles to the county but there was not a proprietary interest or entitlement for contribution or support between the adult brothers].

If you have other questions on this matter, please contact me at znorton@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

By: Zachary W. Norton
Senior Counsel, Legal Division

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