



FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Remke, Commissioners Casher, Eskovitz, Wasserman, and Wynne

From: Hyla Wagner, General Counsel

Subject: Legal Division's Monthly Report

Date: April 1, 2015

A. OUTREACH AND TRAINING

None to report this period.

B. PROBABLE CAUSE DECISIONS

None to report this period.

C. LEGAL ADVICE TOTALS

- ***Email Requests for Advice:*** In March 2015, Legal Division attorneys responded to more than 109 email and telephone requests for legal advice.
- ***Advice Letters:*** In March 2015, the Legal Division received 22 advice letter requests and issued 11 advice letters.
- ***Section 1090 Letters:*** During the same period, the Legal Division received two advice letter requests concerning Section 1090 and issued two advice letters. This year to date we have received seven requests regarding Section 1090 (not including conflict of interest letters that incidentally deal with Section 1090 issues).

D. ADVICE LETTER SUMMARIES

Behested Payments

Michele Beal Bagneris

A-15-011

Payments made at the request of the mayor to the City of Pasadena to defray the costs of the City's 33rd Annual Black History Parade and Festival are made at the mayor's behest and must be reported on the Behested Payment Report.

Conflict of Interest

Julia Lew

A-15-009

City officials may not make, participate in making, or use their positions to influence any decisions regarding a mixed-use project approximately 460 feet from their residence. Without a more specific description of the project and nature of the community, the facts provided are insufficient to indicate that there will be no reasonably foreseeable measurable impact on the officials' property.

Betsy Martyn,

I-15-012

A Water District Board Member, who owns lake front property and is a member of a property owner's association that leases property from the District, has a conflict of interest in the decisions to modify the lease and may not make or participate in making lease decisions or any decisions involving a potential lawsuit by the association involving the lease

David E. Pipal

A-15-028

Water District Board Members who own or lease property in a zone of the district that is the subject of decisions regarding recycled water services have a conflict of interest because it is reasonably foreseeable that the decisions will have a financial effect on their property interests. The public generally rule regarding water districts implementing service or rate changes applies, however, to allow the members to participate in the decisions.

John Sawatzky

A-15-031

A city council member does not have a conflict of interest in decisions relating to his father's real property. A public official has a financial interest in a relative's real property only if the relative is a member of the official's "immediate family," which does not include an adult official's father.

Nicole C. Wright

A-15-033 and A-15-033(a)

Neither Member of the City of Mountain View Bicycle and Pedestrian Advisory Committee has a conflict of interest with respect to governmental decisions relating to the California Street/Escuela Avenue Complete Street Feasibility Study. First, the Study is limited to certain portions of three streets: California Street, Escuela Avenue and Shoreline Boulevard, none of which are the streets on which the Members reside. Second, there are numerous houses between the Members' property and the streets targeted by the study. Finally, preliminary reviews have

not concluded that the study will substantially alter traffic levels or intensity of use in the Members' neighborhoods.

Sonia R. Carvalho **A-15-037**

Under the Act, a city council member does not have a financial interest in his son's private high school where the official is paying the regular rate of tuition with no discounts or benefits that are not available to any other student.

Dendra Dengler **A-15-039**

A community services district board member may participate in discussions during visioning workshops about future uses for the community center that is located about 300 feet from her residential real property because participating in the workshops will not have a reasonably foreseeable measureable impact on the value of her property.

Revolving Door

Greg Fukuhara **A-15-014**

Under the Act's post-governmental employment provisions, a retired Branch Manager in the Procurement Division of the California Department of Technology ("CDT") who intends to work as a consultant for companies seeking to do business with state agencies whose procurements were subject to the Procurement Division's oversight during his tenure is prohibited from:

- (1) Making appearances before CDT, or any agencies subject to CDT as to their budget, personnel, or other operations, for one year after leaving state service; and
- (2) Forever participating in any proceeding involving the state or assisting others in the proceeding unless he did not take part in the proceeding "personally and substantially" and his supervisory responsibilities did not rise to the level of "personal and substantial" involvement in the proceeding.

Section 1090

Grace Arupo-Rodriguez **A-14-153**

Under Section 1090, the remote interest exceptions found in Sections 1091(b)(2) and 1091(b)(14) may apply to those Commissioners on the California Travel and Tourism Commission who own less than 3 percent of the shares in their respective companies. There are no remote interests that will apply to those Commissioners who own 3 percent or more of the shares in their companies.

Madeline Kellner **A-15-021**

The spouse of a City of Novato Councilmember is employed by an environmental consulting firm and the City is proposing to enter a contract with his firm. The spouse owns more than 3% of the company's stock and, depending upon annual firm profitability, he is eligible to have the firm contribute up to 20% of his annual compensation into his tax-deferred stock account. Moreover, he is eligible to receive an annual bonus. Both the Councilmember and the City Council have a prohibitory Section 1090 financial interest in any contract entered into with the spouse's firm.

E. EXEMPTION REQUESTS

Regulation 18740 provides that an official or candidate (with the approval of the General Counsel) is not required to disclose the name of a person under Section 87207 if disclosure would violate California or Federal law. The following exemption request was approved in March.

Fair Political Practices Commissioner Gavin Wasserman