

1 Amend 2 Cal. Code Regs., Section 18702.2 to read:

2 **§ 18702.2. Materiality Standard: Financial Interest in Real Property.**

3 (a) ~~Except as provided in subdivision (c) below, the~~ The reasonably foreseeable financial
4 effect of a governmental decision ~~(listed below in (a)(1) through (a)(12))~~ on a parcel of real
5 property in which an official has a financial interest, other than a leasehold interest, is material
6 whenever the governmental decision:

7 (1) ~~Involves the adoption of or amendment to a~~ of development criteria applicable to
8 ~~general (except as provided below) or specific plan, and the parcel is located within the proposed~~
9 ~~boundaries of the plan;~~

10 (2) ~~Determines the parcel's zoning or rezoning, (other than a zoning decision applicable~~
11 ~~to all properties designated in that category); annexation or de-annexation; or; inclusion in or~~
12 ~~exclusion from any city, county, district, or other local government subdivision; or other~~
13 ~~boundaries, other than elective district boundaries as determined by the California Citizen's~~
14 ~~Redistricting Commission or any other agency where the governmental decision is to determine~~
15 ~~boundaries for elective purposes;~~

16 (3) ~~Would impose, repeal, or modify any taxes, fees, or assessments that apply to the~~
17 ~~parcel;~~

18 (4) ~~Authorizes the sale, purchase, or lease of the parcel;~~

19 (5) ~~Involves the issuance, denial or revocation of a license, permit or other land use~~
20 ~~entitlement authorizing a specific use of or improvement to the parcel or any variance that~~
21 ~~changes the permitted use of, or restrictions placed on, that real the parcel property. For purposes~~
22 ~~of this paragraph, any financial effect resulting from a governmental decision regarding permits~~
23 ~~or licenses issued to the official's business entity when operating on the official's real property~~

1 shall be conclusively analyzed under Regulation 18702.1, rather than this paragraph, without any
2 separate consideration for any material financial effects on the official's real property as a result
3 of the decision;

4 (6) Involves construction of, or improvements to, streets, water, sewer, storm drainage or
5 similar facilities, and the parcel ~~in which the official has an interest~~ will receive new or improved
6 services that are distinguishable from improvements and services that are provided to or received
7 by other similarly situated properties in the official's jurisdiction ~~or where the official will~~
8 ~~otherwise receive a disproportionate benefit or detriment by the decision;~~

9 (7) Involves property located within 500 feet of the property line of the parcel unless
10 there is clear and convincing evidence that the decision will not have any measurable impact on
11 the official's parcel; or

12 (8) Involves property located between 500 feet and 1,000 feet of the property line of the
13 parcel, and the decision would change the parcel's:

14 ~~(7) (A) Would change the development~~ Development potential of the parcel of real
15 property;

16 ~~(8) (B) Would change the income~~ Income producing potential of the parcel of real
17 property. ~~However, if the real property contains a business entity, including rental property, and~~
18 ~~the nature of the business entity remains unchanged, the materiality standards under Regulation~~
19 ~~18702.1 applicable to business entities would apply instead;~~

20 ~~(9) (C) Would change the highest~~ Highest and best use of the parcel of real property in
21 ~~which the official has a financial interest;~~

22 ~~(10) (D) Would change the character~~ Character of the parcel of real property by
23 substantially altering traffic levels, ~~or~~ intensity of use, ~~including parking, of property surrounding~~

1 ~~the official's real property parcel, the view, privacy, noise levels, or air quality, including odors,~~
2 ~~or any other factors that would affect the market value of the real property parcel in which the~~
3 ~~official has a financial interest; or~~

4 ~~(11) Would consider any decision affecting real property value located within 500 feet of~~
5 ~~the property line of the official's real property, other than commercial property containing a~~
6 ~~business entity where the materiality standards are analyzed under Regulation 18702.1.~~

7 ~~Notwithstanding this prohibition, the Commission may provide written advice allowing an~~
8 ~~official to participate under these circumstances if the Commission determines that there are~~
9 ~~sufficient facts to indicate that there will be no reasonably foreseeable measurable impact on the~~
10 ~~official's property; or~~

11 ~~(12) (E) Would cause a reasonably prudent person, using due care and consideration~~
12 ~~under the circumstances, to believe that the governmental decision was of such a nature that its~~
13 ~~reasonably foreseeable effect would influence the market Market value of the official's property.~~

14 (b) The reasonably foreseeable financial effect of a governmental decision is presumed
15 not to be material when the parcel of real property in which an official has a financial interest is
16 more than 1,000 feet from the property line of the real property that is the subject of the
17 governmental decision. This presumption may be rebutted with clear and convincing evidence
18 the governmental decision would have a substantial effect on the official's property.

19 ~~(b) (c) Leasehold Interests. Except as provided in subdivision (e) below, the The~~
20 ~~reasonably foreseeable financial effects of a governmental decision on any real property in which~~
21 ~~a governmental official has a leasehold interest as the lessee of the property is material only if~~
22 ~~the whenever governmental decision will:~~

23 (1) Change the termination date of the lease;

1 (2) Increase or decrease the potential rental value of the property;
2 ~~(3) Increase or decrease the rental value of the property, and the official has a right to~~
3 ~~sublease the property;~~

4 ~~(4) (3) Change the official's actual or legally allowable use of the real property; or~~

5 ~~(5) (4) Impact the official's use and enjoyment of the real property.~~

6 ~~(e) (d) Exceptions. The financial effect of a governmental decision on a parcel of real~~
7 ~~property in which an official has a financial interest is not material if: Exeptions:~~

8 (1) The decision solely concerns repairs, replacement or maintenance of existing streets,
9 water, sewer, storm drainage or similar facilities.

10 (2) The decision solely concerns the adoption or amendment of a general plan and all of
11 the following apply:

12 (A) The decision only identifies planning objectives or is otherwise exclusively one of
13 policy. A decision will not qualify under this subdivision if the decision is initiated by the public
14 official, by a person that is a financial interest to the public official, or by a person representing
15 either the public official or a financial interest to the public official.

16 (B) The decision requires a further decision or decisions by the public official's agency
17 before implementing the planning or policy objectives, such as permitting, licensing, rezoning, or
18 the approval of or change to a zoning variance, land use ordinance, or specific plan or its
19 equivalent.

20 (C) The decision does not concern an identifiable parcel or parcels or development
21 project. A decision does not “concern an identifiable parcel or parcels” solely because, in the
22 proceeding before the agency in which the decision is made, the parcel or parcels are merely
23 included in an area depicted on a map or diagram offered in connection with the decision,

1 provided that the map or diagram depicts all parcels located within the agency's jurisdiction and
2 economic interests of the official are not singled out.

3 (D) The decision does not concern the agency's prior, concurrent, or subsequent approval
4 of, or change to, a permit, license, zoning designation, zoning variance, land use ordinance, or
5 specific plan or its equivalent.

6 ~~(d)~~ (e) Definitions. The definitions below apply to this regulation:

7 (1) A decision “solely concerns the adoption or amendment of a general plan” when the
8 decision, in the manner described in Sections 65301 and 65301.5, grants approval of, substitutes
9 for, or modifies any component of, a general plan, including elements, a statement of
10 development policies, maps, diagrams, and texts, or any other component setting forth
11 objectives, principles, standards, and plan proposals, as described in Sections 65302 and 65303.

12 (2) “General plan” means “general plan” as used in Sections 65300, et seq.

13 (3) “Specific plan” or its equivalent means a plan adopted by the jurisdiction to meet the
14 purposes described in Sections 65450, et seq.

15 (4) Real property in which an official has a financial interest does not include any
16 common area as part of the official's ownership interest in a common interest development as
17 defined in the Davis-Stirling Common Interest Development Act (Civil Code Sections 4000
18 et seq.)

19 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
20 87102.6, 87102.8 and 87103, Government Code.