



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Cardenas, Hatch and Hayward

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: July 8, 2019

The following advice letters have been issued since the June Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Lacey Keys

[A-19-051](#)

Under Section 84222, nonprofit multipurpose organizations, which permit projects to work under their nonprofit umbrella, may qualify as a campaign committee based upon the campaign activity of the sponsored projects. In regard to lobbyist reporting, it is permissible that the projects of the nonprofits report as lobbyist employers to the extent that the nonprofits are not involved in the management of the projects.

Conflict of Interest

Kristen W. Sneddon

[I-18-280](#)

Where parcels designated high fire hazard area make up more than 25 percent of the parcels in the jurisdiction, a councilmember may take part in decisions regarding development standards for the area despite a foreseeable material financial effect on an official's residence under the "public generally" exception provided there is no unique effect on the official's interest.

Serita R. Young

[A-19-050](#)

The Act does not prohibit a councilmember from taking part in decisions relating to the establishment of mixed-use overlay zones, or decisions relating to the rezoning of all properties zoned to allow manufacturing and industrial uses. It is not reasonably foreseeable that the decisions would have a material financial effect on the councilmember's leasehold interest in his residence located nearby a proposed mixed-use overlay zone, or his furniture and upholstery business located nearby another mixed-use overlay zone and in the immediate vicinity of properties zoned to allow manufacturing and industrial uses.

Lan George[A-19-076](#)

A councilmember is not prohibited from taking part in a vote to adopt a “formal stance” of support or opposition against a neighboring city’s development of a homeless center, despite the councilmember owning real property within 500 feet of the proposed site, because merely adopting a “formal stance” would not have a reasonably foreseeable, material financial effect on the councilmember’s real property interest.

Gary W. Schons[A-19-077](#)

A councilmember has a disqualifying conflict of interest under the Act in participating in decisions regarding a nearly six-acre commercial and office development that will replace an existing commercial nursery. Given the significant change in the use of the project property, the scope of the project, and the 750-foot proximity of the Councilmember’s residence, it is reasonably foreseeable that project-related decisions would have a material effect on the Councilmember’s real property interest.

Alexander Abbe[A-19-081](#)

The Act’s conflict-of-interest provisions do not prohibit councilmembers and mayor from participating in a specific plan for focus area consisting primarily of commercial and mixed-use properties. Even if it is reasonably foreseeable that the decisions will have a material effect on the officials’ interests, the officials may take part in the decisions under the public generally exception because the decisions will affect at least 25 percent of the businesses in the jurisdiction and will not uniquely affect any of the officials’ interests.

Jim Karpiak[A-19-086](#)

The Act does not prohibit the executive director of an agency from taking part in decisions relating to a local cemetery district’s application for a grant to fund the removal of draught unfriendly trees from district property located approximately 150 feet from the executive director’s residence. With the nearest tree to be removed under the potential grant located approximately 661 feet from the executive director’s residence, any effect on the executive director’s real property interest in his residence would be nominal, inconsequential, or insignificant.

Lan George[A-19-087](#)

Councilmembers, with an interest in city’s current energy provider as the employer of the councilmember’s spouse, is prohibited from taking part in decisions relating to a proposal to replace the energy provider because it is reasonably foreseeable that those decisions would have a material financial effect on the councilmember’s financial interest in the business.

Loren Soukup[I-19-089](#)

Under the Act, a school board member with real property within 500 feet of a school within his district is not prohibited from taking part in a school budget decision, where budgeted expenditures would not likely have an effect on the school property or adjacent properties, and any potential financial effect on the property from an overall improvement in educational quality is merely hypothetical or theoretical at the time.

Mario Zamora[I-19-095](#)

Assuming one member of a city council files a lawsuit against the city, the Act's conflict of interest provisions do not prohibit the remaining members of the city council from taking part in funding decisions that may potentially impact the amount of city funds available to pay for a monetary obligation arising from the lawsuit because the financial effect of such decisions would not have a reasonably foreseeable and material effect on any economic interests of those councilmembers.

Leticia Ramirez[A-19-102](#)

The Act does not prohibit a councilmember, who is also the executive director of a local nonprofit organization in her private capacity, from taking part in county housing authority decisions relating to its proposed lease of office space to the nonprofit organization, so long as the councilmember does not purport to act within her authority as a councilmember or on behalf of the city council in regard to those decisions.

Michael Maurer[A-19-104](#)

Two hospital district board members are prohibited from taking part in decisions related to a request for proposals for a third-party health care provider to take over operation of a local hospital, because such decisions would have reasonably foreseeable, material financial effects on the board members' economic interests, including a private business providing medical services and a source-of-income interest in a competing health care provider.

Paul Kermoyan[I-19-107](#)

Community Development Director may participate in City's land use entitlement applications for wineries to open tasting rooms or wine bars, notwithstanding the official's ownership of a winery within the County but more than twenty miles from the City because it is not foreseeable that the decision will have a material financial effect on the official's real property or business interests.

Heather Minner[A-19-109](#)

Mayor does not have a disqualifying conflict of interest in participating in decisions regarding a trail project adjacent to publicly used recreational facility. Although three of the five trail alternatives would place the trail within 290 feet of the Mayor's residence, his home will be significantly buffered from trail-related impacts. Accordingly, there is clear and convincing evidence that there will be no measurable impact on the Mayor's property, and any potential effects are nominal, inconsequential, or insignificant.

John Mullen[A-19-110](#)

The Act prohibits a councilmember from participation in decisions regarding a draft short-term vacation rental ordinance because the councilmember receives income from a business that facilitates short-term vacation rentals, which will be materially affected by the decision.

Reed Gallogly[A-19-112](#)

The Act prohibits a councilmember from taking part in decisions relating to a project to construct a five-story, 89-room, hotel within 500 feet of the councilmember's leased residence because it is reasonably foreseeable that those decisions may lead to an increase in the potential rental value of the councilmember's residence.

Brett Kordenbrock[A-19-118](#)

The Act prohibits a design review board member from taking part in a city's decisions about a project located 700 feet from the board member's home. Because the project will increase housing availability, traffic and general activity in the area, it is reasonably foreseeable the project will have a material effect on the board member's interest in real property.

Jeffrey A. Walter[A-19-126](#)

It is not reasonably foreseeable a proposed cannabis related zoning ordinance decision will have a material financial effect on mayor's residential real property or law practice because the ordinance does not approve the establishment or specific location of any commercial cannabis business, and involves a limited change to the allowed uses in existing commercial and mix uses zones.

Jeffrey A. Walter[A-19-128](#)

It is not reasonably foreseeable a proposed cannabis related zoning ordinance decision will have a material financial effect on city manager's residential real property because the ordinance does not approve the establishment or specific location of any commercial cannabis business, and involves a limited change to the allowed uses in existing commercial and mix uses zones.

Jeffrey A. Walter[A-19-130](#)

A councilmember is not prohibited from taking part in a decision allowing a select number of cannabis-related businesses in certain city zones, despite the fact that the councilmember had a leasehold interest in an apartment within one of those zones, because the decision would not have a reasonably foreseeable financial effect on that leasehold interest.

Section 1090**Marc G. Hynes**[A-19-030](#)

The Act does not prohibit district commissioner from taking part in decisions concerning revisions to an agreement between the District and a church, with respect to a parking lot shared by both entities, where the Commissioner owns real property and a business within 500 feet of the parking lot because the financial effect of these decisions on his real properties will not be more than nominal, inconsequential, or insignificant, and will not impact the value of his businesses. In addition, Section 1090 does not prohibit the District and the church from swapping parcels of land that make up the parking lot because the Commissioner does not have a financial interest in such transactions.

Kevin Padian[A-19-061](#)

Neither the conflict of interest provisions of the Act nor Section 1090 prohibit board member of a fire protection district from participating in decisions regarding an evacuation study despite the board member being a university professor and the study entailing the district to contract with university students and a retired professor. Under the government income exception, income from the university is not a disqualifying interest under the Act. Moreover, the proposed contract does not implicate any interest the board member has in the university as his employer.

Julianna Tillquist[A-19-088](#)

A local transit authority director is not prohibited from taking part in decisions and contracting processes involving state agency, despite her husband working as the state agency's director for her district. Under the Act, the local transit authority director has no potentially disqualifying interest in her husband's employment, as his government salary does not qualify as "income" under the Act. With respect to Section 1090, her husband has been working for the state agency for over thirty years and, accordingly, his employment is a "noninterest" under Section 1091.5(a)(6).

Ivan Altamirano[A-19-092](#)

The conflict of interest provisions of the Act and Section 1090 are not implicated if mayor's spouse applies for the executive director position at a joint powers authority that he formerly represented, as an alternate board member, because he did not participate in any governmental decision or contract regarding his spouse's application.

Robert N. Black[A-19-101](#)

Under Section 1090, harbor district is prohibited from leasing property to harbor district commissioner to operate a brewing company so long as the commissioner is serving on the district board.

Robert N. Black[A-19-103](#)

Section 1090 prohibits a councilmember from making or participating in the making of potential agreements with the councilmember's employer. However, city purchasing agent may enter into those agreements on behalf of the City, so long as the councilmember has no role and does nothing to influence the purchasing agent, because the purchasing agent has independent legal authority to contract.

Statement of Economic Interest**Kereli Sengstack**[A-19-058](#)

Members of a theater group, managing the operations of city-owned theater, were consultants to the city, correctly listed in the city's conflict of interest code as "designated employees," and properly directed by the city to file Statements of Economic Interests under the Act.