



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Miadich and Commissioners Baker, Cardenas, Wilson, and Wood

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

**Subject:** Advice Letter Report and Commission Review

**Date:** August 27, 2021

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The following advice letters have been issued since the July 29, 2021, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the September 2021 Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

### *Conflict of Interest*

**Brian Pierik**

[A-21-109](#)

Councilmember who owns real property within 500 feet of an environmentally sensitive habitat area is not prohibited from taking part in decisions regarding the potential modification of the City's pesticide policy applicable to the habitat area. Based on the information provided, there is clear and convincing evidence that a decision would have no measurable impact on the Councilmember's property interests.

**Jeffrey Ballinger**

[A-21-066](#)

A Councilmember has a conflict of interest and may not take part in decisions concerning the operations of, or improvements to, a Golf Resort located within 500 feet of the Councilmember's residence. The Councilmember is also prohibited from taking part in decisions relating to an Energy Efficiency Project if it includes projects located within the Golf Resort. However, the Councilmember is prohibited from taking part in decisions relating to the Energy Efficiency Project if it includes property within 1,000 feet of the residence, but does not include property within 500 feet, only if the project will change her parcel's development or income producing potential, highest and best use, character, or market value.

**Nicole C. Wright**

[A-21-104](#)

Councilmembers may not take part in decisions relating to a parking structure because their residences are located between 500 and 1,000 feet from the parcel subject to the decision and the construction of a new downtown parking structure would substantially alter traffic levels, intensity of use, parking, and air quality in the vicinity of their residences. However, Councilmember with property more than 1,000 feet from the parcel subject to the decision may take part in the decision because there are no clear and convincing indications that the decision would have a substantial effect on her property.

***Section 1090*****Christopher J. Diaz**[A-21-071](#)

Neither the Act nor Section 1090 prohibit Councilmember from taking part in a decision to amend a town's one-year prohibition against former officials, including councilmembers, from applying for tenancy in a senior housing complex merely because the Councilmember may be contemplating applying for tenancy in the complex within one year after leaving office. Under the Act, the decision will not have a foreseeable material financial effect provided the qualifications requirements for leasing a unit in the complex are not modified. Additionally, the Councilmember is not disqualified from the decision under Section 1090 because any interest in the decision falls within the noninterest exception for public services generally provided. Regarding an annual rent adjustment, a Councilmember is not disqualified from a decision merely because an adult in-law is a current tenant of the complex.

**Gregory M. Murphy**[A-21-106](#)

Under the Act and Section 1090, a City Manager is prohibited from taking part in lease negotiations between the City and a non-profit where the non-profit employs the City Manager's spouse and constitutes a source of income. However, so long as the City Manager recuses himself, the City may still contract with the non-profit.

**Jonathan V. Holtzman**[A-21-098](#)

Section 1090 does not prohibit a fire protection district board member, who is also employed as a firefighter by a different fire protection district, from making or participating in making a labor agreement between the district for which he serves as a board member and the firefighters union, of which he is a member as a firefighter, because the noninterest exceptions of Section 1091.5(a)(7) and (9) apply. The Act would not prohibit the board member from taking part in governmental decisions relating to the labor agreement because it is not reasonably foreseeable that those decisions would have a material effect on the official's personal finances.