



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: September 24, 2021

The following advice letters have been issued since the August 27, 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](#).

Campaign

Lori Stone

[I-21-099](#)

A candidate who controls her own committee for election to a specific office is prohibited from providing campaign management services to other committees that support or oppose candidates for elective office or make contributions to support or oppose candidates for elective office, such as developing or implementing campaign strategy, but is generally permitted to provide campaign management services only to the extent the candidate does not have significant influence over the committee's decisions and do not act jointly with the committee in making expenditures. With respect to the conflict-of-interest rules, the Act does not prohibit an official from holding a public position and also being employed by or operating another entity such as a private business. However, the official may not take part in decisions that have a reasonably foreseeable material financial effect on any financial interest the official may have, including a financial interest in a source of income or a business entity.

Conflict of Interest

Thomas D. Jex

[I-21-063](#)

Where an official has a real property interest eligible for a short-term vacation rental permit ("STVR"), the official may not take part in the broad consideration of limitations on STVR permit eligibility and the scope of the permits because it is reasonably foreseeable the decisions will have a material financial effect on the real property interest. The official must demonstrate that the financial effect of the decision is indistinguishable from the effect on the public for the public generally exception to apply, and the officials are unable to do so at this time. However, Regulation 18705 sets forth the requirements for participation of officials with a prohibitive interest when it is legally necessary in order to form a quorum for these decisions.

Alex J. Lorca[A-21-115](#)

Councilmember who has no ownership interest in residence owned by adult son does not have a financial interest that would preclude participation in decisions relating to a proposed trail project. Other councilmembers with residences located less than 500 feet from the proposed trail location are subject to a standard that requires clear and convincing evidence that the proposed project would have no measurable effect on their residential real property. Because clear and convincing evidence the project would not have a measurable effect on the properties has not been provided, these councilmembers have disqualifying conflicts of interests under the Act. However, decisions concerning the project do not appear to affect the value of the residences that are more than 500 feet from the project, and these officials may take part in the decisions.

Frank A. Splendorio[A-21-103](#)

Where each official's residential property is located less than 400 feet from the Project and the access road to their residences will be extended to provide access to the new subdivision, it is reasonably foreseeable that the Project decisions, including the preliminary environmental consultant decisions, will have a material financial effect on each official's real property interest. However, where a significant segment of the residential properties is within 800 feet of the Project and the facts do not indicate that the officials will experience a disproportionate financial effect on their residences in comparison to the significant segment, the officials may participate in the decision under the public generally exception.

Linda Schiltgen[A-21-108](#)

County Planning Commissioner with interest in wife's employer, a nonprofit trade association supporting local vintners, is disqualified from decisions related to an ordinance affecting local wineries because of the nexus between the decisions and the income received from the organization. The Commissioner may not make, participate in making, or influence decisions regarding the ordinance.

Paul Resnikoff[A-21-117](#)

Vice Mayor may not take part in decisions involving the construction of a new, \$20+ million, 24,800 square-foot police building located less than 500 feet from his home as the magnitude and cost of the project, as well as resulting noise, fails to establish clear and convincing evidence that the project will have no measurable effect on the official's property. Accordingly, it is reasonably foreseeable that the project would have material effect on the property.

Section 1090**Brad Wiblin**[A-21-097](#)

Section 1090 does not apply to rezoning recommendations from the Planning Commission to the City Council, despite connection with a subsequent request for proposal by another agency for a proposed transit-oriented project, because the rezoning recommendation is regulatory in nature. However, because it is reasonably foreseeable under the Act that the financial effect of the rezoning recommendations will have a material effect on the Planning Commissioner's employer, who would like to pursue the contract with the other agency and has expertise in the

field and an established relationship with the other agency, the Planning Commissioner may not take part in the recommendations.

**Kevin G. Ennis and
Michael Mc Entee**

[A-21-112/113](#)

Under the Act and Section 1090, a City's Mayor is prohibited from taking part in her official capacity in a contract between the City and Mayor for the acquisition of land owned by the Mayor and necessary for the completion of a long-planned City roadway extension project. However, under the Act, an official with a disqualifying interest in real property may still appear before the official's own agency in the course of its prescribed function as a member of the public for matters related solely to real property owned only by the official and the official's immediate family. Additionally, although Section 1090 would ordinarily prohibit the contract altogether, the rule of necessity permits the contracting process under these circumstances.

Claire Hervey Collins

[A-21-118](#)

Section 1090 prohibits board member from participating in a Cooperative Agreement with a Joint Powers Authority to reimburse the JPA for its share of the costs of consulting services provided by board member's former employer because he has a prohibitory financial interest in the agreement resulting from his current equity stake the former employer. However, the "rule of necessity" applies to allow the water district to nonetheless enter into the contract so long as the board member abstains from any participation in his official capacity.