



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Wilson, and Wood
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report
Date: April 3, 2023

The following advice letters have been issued since the February 24, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the April 20, 2023, Commission Meeting. Full copies of FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Section 84308

Randall Sjoblom

[I-23-027](#)

Section 84308 applies to any proceeding or action to grant, deny, revoke, restrict or modify “licenses, permits, or other entitlements for use.” A decision to vacate an irrevocable offer of dedication or a public easement is a proceeding involving an entitlement for use.

Thai Viet Phan

[A-23-052](#)

Although Section 84308 prohibits officers including city councilmembers from accepting, soliciting, and directing contributions of more than \$250 from parties in a proceeding involving “a license, permit, or other entitlement for use,” the statutory definition of that term excludes labor contracts. Accordingly, Section 84308 does not apply to contributions to councilmembers from an organization entering into a labor agreement with the City.

Campaign

Michael Caves

[A-23-017](#)

The \$50 state mandated annual committee fee is not an “expenditure” for purposes of the reporting exception provided in Section 84200(a)(2) and (3). A judge with a committee that otherwise meets the requirements of this exception will not have a semiannual campaign statement filing duty based solely on the payment of the annual fee.

Ashlee N. Titus

[A-23-028](#)

To the extent that a committee places only “all purpose” account funds in a higher interest-bearing account, maintains and designates this interest-bearing account as an “all purpose” committee account, appropriately labels it as such with the financial services company, does not comingle “all purpose” and “restricted use” account funds, and then returns those funds to the “all purpose” account prior to making any expenditures or contributions, the deposit will not be considered an impermissible transfer under Regulation 18534.

Leticia Flores[A-23-043](#)

In connection with the August 29, 2023, election in Riverside County, candidates and their committees may use a filing schedule that combines the semi-annual campaign statement with the first pre-election statement. The combined statement will be due on July 20, 2023, covering the period January 1, 2023, through July 15, 2023.

Conflict of Interest**Isaac Rosen**[A-23-005](#)

Because of the nexus between the decisions and income he receives from his employer, Planning Commissioner is prohibited from taking part in decisions concerning the Project where current clients of his employer are the Project applicant's representative and the project designer. Thus, the Commissioner may not take part in subcommittee recommendations concerning the project.

Michael Gates[A-23-020](#)

Councilmember is not disqualified from taking part in decision related to a housing project more than 500 feet, but less than 1,000 feet, from the Councilmember's rental property because it is not reasonably foreseeable the decision will have a material financial effect on his interests in his property or rental business. Based on the information provided, there is no indication the Project would impact the development or income producing potential of the property, the use of the property, the market value, or the character of the property as the zoning and character of the property will remain largely unchanged. Furthermore, there is no indication the Councilmember will incur costs due to the Project or will lose or gain any revenue from the Project.

Brian A. Pierik[A-23-021](#)

Councilmember is not prohibited from taking part in decisions regarding a restorative management plan for a park, where his house is within 500 feet of the park, because the decision "solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities" and therefore comes within the exception to the materiality rules under Regulation 18702.2(d)(1). Separately, the Councilmember is prohibited from taking part in decisions whether a skate park may be located within 500 feet of his residence because the decisions are presumed to have a reasonably foreseeable and material financial effect on his residence.

Mark Vanni[A-23-022](#)

Councilmember, with disqualifying conflicts of interest in update to City Housing Element, may take part in subsequent decisions if the decision in which the Councilmember is disqualified is property segmented and considered first. With almost 300 sites suitable for residential development, decisions related to four of the properties can be made independently from decisions related to the other 287 sites in the Housing Element and thus are not inextricably interrelated decisions.

Rachel H. Richman[A-23-023](#)

Councilmember has a conflict of interest and may not take part in decisions to select an operator to provide homeless services, which could involve a hotel property located 371 feet from the Councilmember's business and leased commercial space, because the facts indicate it is reasonably foreseeable the decision could change the potential rental value, and impact the Councilmember's use and enjoyment of, the property.

Jon Primuth[I-23-025](#)

Councilmember, who is also an attorney and partner in a law firm, is not generally prohibited from taking part in decisions involving the City Attorney merely because a predecessor firm, which has since merged with Councilmember's firm, jointly represented a client with the City Attorney's firm seven years ago. Based on the facts provided the Councilmember does not have any interest in the City Attorney or the City Attorney's firm, and there is no indication that the decision could have an impact on the Councilmember's current firm.

Jeffrey Ballinger[A-23-031](#)

Mayor Pro Tem may participate in discussions and decisions surrounding the placement of a popular statue. The decisions will not impact the use and enjoyment of the leased property that houses the Mayor Pro Tem's business, nor will it impact the amount or length of his lease. Further, it is not reasonably foreseeable that the decisions surrounding the statue will have an impact on the Mayor Pro Tem's business entity or source of income based on the fact that the statue has not previously had any measurable impact on his business.

Jim Waschura[A-23-036](#)

Planning Commissioner may not take part in a decision to amend a telecommunications facility ordinance where the official's residential property is located within 500 feet of the only property currently impacted by the ordinance because there are no facts indicating that the decision will not have any measurable impact on the official's property. Moreover, any financial effect on the Commissioner's property will be unique based on the proximity of the property to sole property impacted by the decision. Therefore, the public generally exception does not apply.

Marian L. Slocum[A-23-038](#)

Planning Commissioner does not have a disqualifying financial interest in decisions involving a commercial project approximately 908 feet from the Commissioner's rental property. Based on the facts provides and location of the Project, there are no indications that the Project would impact the development or income producing potential, the use, the market value, or the character of the property as the property is fairly removed from the Project and the Project does not change the character of the project site. Further, there are no facts to indicate a change in the rental value of property, nor would the Commissioner incur any costs because of the Project.

Amy Ackerman[A-23-041](#)

Councilmember is prohibited from taking part in decisions enhancing parks and recreation infrastructure at a park within 500 feet of her residence because there is no clear and convincing evidence that the decisions would not have any measurable impact on her real property.

However, the Town may be able to segment decisions involving other parks to allow for the councilmember's participation.

Matthew T. Summers

[A-23-047](#)

Councilmember is prohibited from taking part in decisions because it is reasonably foreseeable that the decisions regarding a large mixed use housing development project, which include developing a parking lot in a commercial area, increasing the desirability of the area, introducing potential new customers or businesses to the area, will have a material financial effect on the Councilmember's leased commercial office space within 500 feet of the Project.

Gifts

Arthur Liou

[I-23-039](#)

If provided for the purpose of educating the participants in matters related to the performance of their official duties, the cost of leadership training for newly elected state and local legislators would be informational material and not be regarded as "gifts" to the participants under the Act. However, the informational material exception would not apply to any other related payments including payments for transportation, accommodations, meals, or the reimbursement of other expenses.

Personal Use

James C. Harrison

[I-23-018](#)

Train passes provided at no cost to members of an agency's Board of Directors do not constitute gifts or income to the officials, provided that issuance of the passes constitutes a permissible use of public funds. However, the passes are gifts under Regulation 18944.3 if the issuance of passes is an impermissible use of public funds, and we express no opinion regarding laws addressing the permissible use of public funds outside of the Act.

Revolving Door

Evann Whitelam

[A-23-006](#)

The permanent ban does not prohibit former Agency Director from advising healthcare plans regarding procurements before the Agency, because the Director's involvement in the procurement proceeding was limited to the high-level and general determination to initiate the process, she did not directly supervise the staff who developed and oversaw the proceedings, and she left the agency prior to the start of proceedings involving specific parties.

Jessica Sicard

[I-23-016](#)

The one-year ban does not prohibit former state employee from providing consulting services to a federal agency, as a subject matter expert on earthquake early warning alert technology, because this would not involve appearing before or communicating with the former state agency so long as the decision is before the federal agency. However, the former state employee may not use the proceeding to otherwise make prohibited appearances before or communications with her

former state employer. Moreover, the permanent ban does not prohibit the former state employee from providing the consulting services to the federal agency related to the new proceeding.

Amilia Glikman

[I-23-029](#)

Under the one-year ban the Office of Legislative Counsel is a state administrative agency and the ban is potentially applicable to former Deputy Legislative Counsel if appearing before or communicating with the office. However, the one-year ban does not apply to appearances before or communications with the Legislature or other state agencies that have an attorney-client relationship with the Office of Legislative Counsel. Additionally, general guidance on laws and policies while working at the Department of Toxic Substances Control, would not be considered a “judicial, quasi-judicial, or other proceeding” subject to the permanent ban.

Section 1090

Donna Mooney

[A-23-013](#)

Vice Mayor is prohibited from taking part in governmental decisions relating to a proposed residential development project for up to 1,500 homes located on 607 acres of vacant land between 500 and 1,000 feet from his residence because it is reasonably foreseeable that the Project will have a material financial effect on his residence based on its potential to protect or increase the market value of neighboring property. However, two other officials with residences more than 1,000 feet from the project are not prohibited from taking part in those decisions because the facts do not provide clear and convincing evidence to rebut the presumption that the decisions would not have a substantial effect on their residences. In addition, based on the facts provided, the officials do not have an interest in a development agreement under Section 1090. Thus, officials not otherwise disqualified under the Act, can take part in, and the City may enter into, a development agreement under Section 1090.

Todd Marker

[A-23-014](#)

Under Section 1090, a City is prohibited from entering a contract with the host of radio show where a City Councilmember has a source of income interest in a broadcasting business that carries and sells airtime for the host’s show. Under these facts, the Councilmember has a financial interest in any contract between the City and the radio host and there are no applicable remote or noninterest exceptions that would allow the City to enter the contract.

Karli Frye

[A-23-024](#)

General Administrator of Community Services District, who also serves as a school district board member, has a remote interest in the School District’s decision to sell a surplus building to the Community Services District under Section 1091(b)(13). The official must recuse herself from the decision in accordance with Section 1091. However, the School District may proceed with the sale.

Larissa Seto

[A-23-032](#)

The conflict of interest provisions under the Act and Section 1090 do not prohibit City Commissioner from taking part in governmental decisions involving the allocation of grant funds notwithstanding an application for the grant from the nonprofit organization for which the

Commissioner is also a board member. Because she is not compensated by the nonprofit, the commissioner has no interest in the nonprofit under the Act. Similarly, the commissioner has a noninterest in any grant agreement under Section 1091.5(a)(8) because she is not compensated, and a primary purpose of the nonprofit supports the functions of the City Commission.

Keith F. Collins

[A-23-040](#)

Councilmember is not prohibited from taking part in a contract between the City and her employer, a public university, given that her salary and benefits come from a government entity and are not considered potentially disqualifying “income” under the Act. Similarly, under Sections 1090 and 1091.5(a)(9), the Councilmember does not have a financial interest in the contract, so long as her interest in the University as an employer is disclosed and noted in the City Council’s record.

Serita Young

[A-23-046](#)

Under the Act and 1090, Councilmember, who was formerly an uncompensated officer of a nonprofit, is not prohibited from taking part in decisions related to a development project, including a decision of whether to settle a lawsuit regarding the project filed by the nonprofit, because the Councilmember has no economic interest in the nonprofit and her personal finances would not be affected. Further, neither the Act nor Section 1090 prohibit the Councilmember from taking part in the decisions due to a potential economic interest in her daughter’s residence, given that the residence is located over 2,800 feet from the project site and the Councilmember does not have an interest in the contract.