



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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# Fourth Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

## Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

## Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

### Conflict of Interest

#### **Julian Miranda**

[I-22-095](#)

The Act prohibits a housing authority executive director from taking part in decisions regarding the future development of a vacant 10-acre parcel of land located approximately 958 feet from his residence to the extent it is reasonably foreseeable those decisions will have a material financial effect on his real property interest. However, the determination cannot be made without facts identifying the specific nature of the decisions regarding the 10-acre parcel.

#### **Nicole C. Wright**

[A-22-105](#)

Official is not prohibited from taking part in decisions regarding project that will replace existing gas station and service center with a 62-unit, high density residential and mixed commercial use 5-story building. While the official leases an apartment approximately 593 feet from the project, it is not reasonably foreseeable the project decisions will have a material effect on his leasehold interest because the project is consistent with existing residential and commercial uses and developments in the immediate area and there are no other indications that the decisions may impact his use and enjoyment of his apartment or its potential rental value

#### **Megan K. Garibaldi**

[A-22-107](#)

The Act does not prohibit two councilmembers from taking part in decisions regarding a biking and walking path located within 500 feet of their residences because there is clear and convincing evidence that the path, with no direct access or view from their residences, will have a measurable impact on their residences.

#### **Nicole C. Wright**

[A-22-117](#)

Vice Mayor may not take part in decisions relating to a proposed resolution to amend a downtown plan, temporarily limiting new office development, because it is reasonably foreseeable that those decisions may have a material financial effect on the official's real property interest in a single-family home located approximately 303 feet from the project area.

**Celeste Stahl Brady** [A-22-118](#)

An official with a prohibitive financial interest in a contract involving waste disposal services provided near the official's residence is not prohibited from participating in consent calendar actions to approve the resulting payments made to the provider where the facts do not indicate a reasonable foreseeability that his financial interest in his mobile home's value would be materially affected by this action. Additionally, to the extent that the payment decision meets the definition of a ministerial action, the official's participation would not meet the definition of "making or participating in making a decision" under Regulation 18704(d)(1) and the Act's conflict of interest provisions would not be applicable.

**Christopher J. Diaz** [A-22-124](#)

Official with a residence located 879 feet from two parcels subject to an application for subdivision creating three parcels, eligible for single family home construction on two, and a street extension does not have prohibited financial interest in the decision under Regulation 18702.2(a)(8) where her residence is separated from the Project by other large residential parcels, with no connecting streets in the immediate area; not in proximity to the street extension area and its potential street traffic impacts; and not similarly eligible for potential subdivision and development.

**Monica I. De La Hoya** [I-22-126](#)

Official with a residence located within a concentration of short-term vacation rental properties may participate in decisions to update a short-term vacation rental ordinance if the public generally exception is met. Generally, given that the decisions will similarly affect 67 percent of the residential parcels in the Official's district, the public generally exception applies so long as the decisions do not uniquely effect the Official's property.

[Statement of Economic Interest](#)

**Roger Formanek** [A-22-113](#)

Members of a newly formed interagency committee are not required to file Statements of Economic Interest because they are not considered public officials under the Act, as the role of the Committee is solely advisory, and the Committee has no decision making power.

[Section 1090](#)

**Gary S. Winuk** [A-22-083](#)

Section 1090 prohibits individual councilmembers from using discretionary City budget funds to renew or modify existing contracts for computer software services with a company if the spouse of one of the councilmembers accepts employment with the company. However, automatically renewing subscriptions may be continued to the extent that any changes to the subscriptions are

provided in terms of the existing contract and applicable to all similar subscribers. Nonetheless, the Act prohibits a councilmember from continuing any subscription with the company if the councilmember's spouse is employed by the company.

**Mary L. Slocum**

[A-22-084](#)

Under Section 1090, a city council member has a financial interest in a waste service agreement overhaul decisions where the official is employed by a competitor waste service business that operates in the vicinity and there is the possibility that the negotiations could present an opportunity for the employer and set rates for services that may indirectly affect the employer.

**Dean Derleth**

[A-22-099](#)

An initial contract to prepare an accident inspection report identifying the cause of an explosion and necessary repairs to equipment at a City sewage wastewater treatment facility did not require a contractor to engage in or advise on public contracting on behalf of a City. Therefore, the contractor is not subject to Section 1090 as an independent contractor for the City, and Section 1090 does not prohibit the City from entering a subsequent contract with the contractor for the repair of the equipment, based on the preliminary services it provided under the initial contract.

**Jeffrey S. Ballinger**

[A-22-109](#)

Under the Act and Section 1090, a city councilmember is prohibited from taking part in governmental decisions brought to the city council by a developer that employs the councilmember's son, who is a source of income to the councilmember. However, under Section 1091, the councilmember's financial interest in a contract between the city and the developer is "remote," and the city may contract with the employer following the councilmember's recusal.

**Michael Guina**

[A-22-076](#)

Section 1090 prohibits Councilmember from taking part in the development agreement process, including preliminary decisions, between the City and a real estate developer based on her husband's employment with the law firm representing the developer before the City. However, the "rule of necessity" permits the remaining members of the City Council to enter the development agreement, as the City Council is the only government entity with the power to approve such an agreement.

**Veronica Ramirez**

[A-22-089](#)

Under Section 1090, Councilmember is prohibited from taking part in any decisions involving a contract between the City and developer because of his interest in the contract resulting from income paid by the developer to a subsidiary of the parent company of the Councilmember's employer. Councilmember is also prohibited from taking part in decisions related to establishing a district that will be an essential element of the contracts between the City and developer. However, the Councilmember's interest is remote and the City may enter the contract and establish the district so long as the Councilmember recuses himself from the decisions.

**Carrie Purcell**

[A-22-101](#)

Section 1090 does not prohibit City from entering contracts with firms related to the repair of city-owned infrastructure, despite having previously contracted with the firms for related work, where the initial contracts did not involve the firms advising on or engaging in public contracting on behalf of the City.

**Maricela Marroquin**

[A-22-103](#)

Official who owns a residence approximately 529 feet from undeveloped property, owned by the City, may not take part in decisions regarding the property and the proposed multi-unit development under the conflict of interest provisions of the Act because it is reasonable foreseeable the decisions will have a material financial effect on her residence. However, Section 1090 does not apply to an official merely because the official has a property or a business adjacent to or in close proximity to the project that is the subject of the contract.

**Theresa Olivares**

[I-22-111](#)

The Act does not prohibit Assistant City Manager from taking part in decisions concerning a needs assessment for city hall and police department facility because it is not reasonably foreseeable that her residence located three blocks from the project will experience substantially altered traffic levels, intensity of use, parking, and noise in the immediate neighborhood area, nor a market value change, under Regulation 18702.2(a)(8). For the same reasons, the Assistant City Manager would not have a prohibitory financial interest under Section 1090 in contracts related to the needs assessment.

**Daryl F. Camp, Ed.D.**

[A-22-114](#)

School Board Official also employed by a 501(c)(3) nonprofit corporation has a remote interest in contract decisions involving the School Board and the nonprofit employer. (Section 1091(b)(1).) So long as the official discloses the interest to the board of trustees, the remote interest is noted in the board's official records, and the official recuses from decisions involving the contract, Section 1090 does not prohibit the School Board from making decisions on the contract.

**Gary S. Winuk**

[I-22-073](#)

The Act generally prohibits an executive director from taking part in any decision if it is reasonably foreseeable that the decision will have a material financial effect on the employer of her spouse. In addition, under Section 1090, the executive director has a financial interest in any agreement between her agency and her spouse's employer, and she must abstain from any participation in such contracts.

**Larissa Seto**

[A-22-119](#)

Housing Commissioner does not have a disqualifying interest in an organization as an uncompensated officer of a nonprofit organization under either the Act or Section 1090. Accordingly, the Commission may consider and make recommendations to the City Council regarding grant funding to the organization and the Commissioner is not precluded from taking

part in the decision so long as the fact that he is currently serving as a member of the board of directors for the organization is noted in the official record.

**Danielle Maland**

[A-22-122](#)

Section 1090 prohibits County from entering a second contract with an engineering firm to provide construction management services related to the same project when, under the terms of the firm's initial contract with the County, the firm had duties to engage in or advise on public contracting on the County's behalf and did so by creating construction contract documents, reviewing bids, and making recommendations regarding those bids.

**James R. Williams**

[A-22-123](#)

Under the Act and Section 1090, Deputy County Executive who serves as an uncompensated board member of a non-profit organization is not disqualified from taking part in contracts between the County and non-profit so long as the Executive's interest in the non-profit is noted in the County's records.

**Jena Shaof Acos**

[A-22-133](#)

Official does not have a disqualifying economic interest and is not prohibited from taking part in governmental decisions under the Act or Section 1090 where the Official's adult, financially independent child, works for a party contracting with the Official's agency.

## Commission Opinions

None.

## Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

### Statement of Economic Interests Late Reporter

**In the Matter of John Reed; FPPC No. 19/1117.** Staff: Theresa Gilbertson, Senior Commission Counsel and Paul Rasey, Special Investigator. John Reed, as a Planning Commissioner for the County of Madera, failed to disclose all reportable sources of income on a 2015 Annual Statement of Economic Interests, in violation of Government Code Section 87207 (1 count). **Fine: \$3,000.**

## Legislation

None.