



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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April 8, 2025

Marian Slocum
RWG Law
350 South Grand Avenue
37th Floor
Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-25-038

Dear Ms. Slocum:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Under the Act, may Brea City Council Member Steven Vargas take part in City Council decisions regarding a development project that would involve the demolition of an office building and the construction of 179 new residential units on a project site located between 500 and 1,000 feet from Council Member Vargas’s residential real property?

CONCLUSION

No, given the scope of the Project, including the number of new residential units, the replacement of vacant commercial property, and the proximity to Council Member Vargas’s property, it appears the Project would impact the market value and income-producing potential of Council Member Vargas’s property. Therefore, it is reasonably foreseeable the Project-related

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

decisions may have a material financial effect on Council Member Vargas's property and the Act prohibits him from taking part in the decisions.

FACTS AS PRESENTED BY REQUESTER

The Brea City Council will soon consider governmental decisions regarding the Greenbriar Residential Development Project ("Project"). The Project involves the demolition of an existing office building and parking structure for the construction of 179 residential dwellings on a 9.73-acre site. The existing office building is vacant and has been since the spring of 2020. The Project would include dwellings in three different types of buildings: 1) five-plex buildings with one and two-car garages depending on bedroom count, 2) attached three-story duplexes with two-car garages with side entry and rear yards, and 3) attached three-story duplexes with two-car garages with a roof-top deck. The Project is estimated to house approximately 505 new residents. The Project would also include open space areas and internal access roads. The Project site is bounded by State Route 57 (SR-57) to the west; residential uses along Greenbriar Lane to the north; residential uses separated by the Fullerton Creek drainage channel and South Associated Road to the east; and the Brea Plaza Shopping Center to the south.

The City has prepared a Final Environmental Impact Report ("FEIR") for the Project. A link to the FEIR was included in your request for advice. The FEIR did not identify any significant and unavoidable impacts created by the Project. The Project requires amendments to the City's General Plan and Zoning Map to change the Project site's current land use designation from General Commercial to Mixed-Use II, which would allow residential use for the site.

City Council Member Steven Vargas owns a parcel of residential property ("Vargas Property"). The Vargas Property is approximately 638 feet away from the project site as measured by the City's GIS system. The Vargas Property is currently developed with a single-family residence and is Council Member Vargas' main residence. The Vargas Property is worth approximately \$1,137,500. Although the FEIR references the possible economic impact of the Project at a general level, it does not analyze the Project's financial impact on any surrounding properties. Nor has any appraisal been conducted to quantify the potential financial impact of the Project on the Vargas Property, if any.

ANALYSIS

Under Section 87100 of the Act, "[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official's position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest." "A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family," or on certain specified economic interests. (Section 87103.) This includes "[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more." (Section 87103(b).)

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states,

“[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).”

Where an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, “[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.”

The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel’s:

- (A) Development potential;
- (B) Income producing potential;
- (C) Highest and best use;
- (D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or
- (E) Market value.

(Regulation 18702.2(a)(8).)

With respect to a potential change to the character of Council Member Vargas’s real property, although the FEIR did not identify any significant and unavoidable impacts created by the Project, the increase in the number of nearby residents and residences could foreseeably impact traffic levels or intensity of use in the neighborhood. However, it is unnecessary to reach a conclusion regarding whether the Project would change the character of Council Member Vargas’s real property, given the Project’s impact on market value and income-producing potential. The Project would involve the construction of a significant number of new residential properties, made even more significant by the fact that the Project would involve the redevelopment of commercial property that has been vacant for years. Considering these facts and the proximity to Council Member Vargas’s property, it appears that the Project would impact the market value and income-producing potential of Council Member Vargas’s real property a conclusion consistent with previous advice letters involving residential projects of this size and distance from the official’s property.² Therefore, it is reasonable foreseeable the Project-related decisions may have a material

² See, e.g., *Roberto* Advice Letter, No. A-21-043 [interim city manager prohibited from taking part in decisions relating to a proposed 130-unit residential development project located on 16 acres of vacant land about 600 feet from her residence based on its potential to protect or increase the market value of neighboring property]; *Diaz* Advice Letter, No. A-20-113 [councilmember disqualified from taking part in decisions to eliminate 45.17 acres of vacant property between 500 and 1000 feet from his residence in favor of 103 high-end and low-density single-family

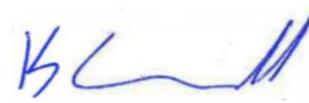
financial effect on Council Member Vargas's real property and the Act prohibits him from taking part in those decisions.

If you have other questions on this matter, please contact me at kcornwall@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

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homes]; *Wisinski* Advice Letter, No. A-20-085 [councilmember disqualified from decisions relating to proposed residential project consisting of 510 units on undeveloped real property located 703 feet from councilmember's residential real property interest]; *Chopra* Advice Letter, No. A-18-098 [reasonably foreseeable that construction of 118 new residential dwellings on land utilized as a public park located about 930 feet from residences of two City of Mountain View councilmembers would have a material financial effect on the market value of their homes].