



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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Third 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

Donna Mooney

[A-23-091](#)

Where an official's residential property is located within 500 feet of a zone subject to design standards intended to streamline types of multi-family housing developments, the official is prohibited from taking part in the decision absent clear and convincing evidence that the decision will have no measurable impact on the official's property. Additionally, it is reasonably foreseeable that the design standards decision would increase or decrease the potential rental value of an official's leased property by encouraging or discouraging types of multi-family and mixed-use housing developments within the same zone as the leased property.

Heather L. Stroud

[A-23-104](#)

City Councilmember may take part in decisions related to a project developing a new recreation center when the Councilmember owns real property 2,000 feet from the project. Under the Act, it is presumed that there is no material financial effect on property more than 1,000 feet from a decision, unless there is clear and convincing evidence that decisions surrounding the project will have a substantial effect on the property.

Jolie Houston

[A-23-108](#)

It is not reasonably foreseeable that decisions to install a license plate reader will have a material effect on Vice Mayor's property within 500 feet of the camera. Based on the facts provided and nature of the decisions, there is clear and convincing evidence that the decision will have no measurable impact on the property. There is also no indication that the camera would have an effect on any interest in a rental business or tenants of the rental business should the official rent the property in the future. Accordingly, the Vice Mayor may take part in the decisions.

Kevin G. Ennis

[A-23-106](#)

Mayor and Mayor Pro Tem may participate in a decision on a Zoning Code Update, as long the decision is segmented so as to exclude decisions on those zones in which the officials have respective interests and final decisions affecting these zones are considered first without the disqualified officials taking part.

Molly McLean

[I-23-115](#)

Water board director receiving income from a nonprofit organization, advocating for conservancy along the river system, is likely disqualified under the Act from taking part in board decisions concerning the river system due to the nexus between the decisions and income he receives from his employer, for work that is very closely tied to advancing the interests of the employer. For purposes of Section 1090, the District cannot generally enter a contract in which the Director has a financial interest unless an exception applies. However, Section 1091(b)(1) provides that an officer or employee of a nonprofit corporation or 501(c)(3) entity has only a remote interest in the contracts involving the entity. Under this exception, a governing board is not prohibited from entering a contract, if the member with a financial interest discloses the interest to the board, the interest is noted in the board's official records, and the official abstains from the contracting process.

Steven Mattas

[I-23-128](#)

County-wide Regional Transportation Commission member may be prohibited from taking part in a decision affecting a rail line—a portion of which is located less than 500 feet from her leased property—where it is reasonably foreseeable the decision would have a material financial effect on the leased property—including impacts on the potential rental value or the official's use and enjoyment of the property. In determining whether the Public Generally Exception may apply to such a decision, the relevant jurisdiction to consider is the county the Commission serves, not the city the official also represents in her separate capacity as a city council member.

Quinn M. Barrow

[A-23-135](#)

For an official who owns several adjacent parcels that form the official's 80-acre ranch property, with one parcel located within 695 feet of one of 36 properties subject to a decision granting high-density multi-family housing development by right, it is reasonably foreseeable that the decision would have a material financial effect on the official's real property interests where the official's property is undeveloped and the high density proposed on the undeveloped property subject to the decision would likely change the development and income producing potential, as well as the market value of the official's properties. (Regulation 18702.2(a)(8)(A)- (E).) The decision may be segmented in accordance with Regulation 18706 to remove the particular property from the decision concerning the remaining 35 properties.

Ishvi Aum

[I-23-109](#)

Under the Act's public generally exception, a community services district board member may be permitted to take part in governmental decisions involving the amendment of a ground water management plan that would impact the development criteria of the entire jurisdiction, including his own real property, so long as the decisions will not have a unique effect on the official's economic interests. However, we are unable to determine whether the public generally exception applies without identifying a specific decision before the district.

Matthew T. Summers

[A-23-114](#)

Councilmember is potentially disqualified from mixed use housing development project decisions where the project will develop a commercial area into housing, bring construction noise, and increase traffic on a parcel located in close proximity to the official's leased commercial office space. However, the Councilmember may take part in the decisions under the public generally exception as a significant segment of the businesses in the City, 45 percent, are within 500 feet of the project and the facts indicate there is no unique effect on the official's interests in comparison to the significant segment.

Christine Dietrick

[I-23-118](#)

Under the Act, Vice Mayor and Assistant City Attorney are generally prohibited from taking part in decisions related to the construction of a freeway interchange near their neighborhood, and supported by assessment on property in the neighborhood, if decisions would explicitly involve the officials' respective properties under Regulation 18702.2(a)(1)-(6). To the extent a decision regarding the interchange would *not* explicitly involve the officials' respective properties, which are more than 1,000 feet from the interchange, the officials may take part in the decisions unless there is clear and convincing evidence of a substantial impact on their real property.

Peter Thorson

[A-23-120](#)

Councilmember is prohibited under the Act from taking part in decisions relating to a proposed project to construct, which includes up to 1,192 new residential units, 3 million square feet of commercial and industrial space, a 160-room hotel, and 11 acres of parks and open space on approximately 248 acres of predominately vacant land within 500 and 1000 feet from her residence, because it is reasonably foreseeable that the project will have a material financial effect on her residence including a potential effect on the market value of the residence.

Scott M. Rennie

[A-23-123](#)

Councilmember who owns a residence located within 500 feet of an unincorporated industrial area, which is the subject of annexation decisions and the adoption of a draft specific plan, has a conflict of interest in these decisions and may not take part in them. Based on the nature of the decisions and proximity to the official's residence, it is reasonably foreseeable the decisions would have a material financial effect on the Councilmember's residence.

Melina C. H. Stewart

[A-23-130](#)

Councilmember has a disqualifying financial interest and may not take part in decisions involving a project, which includes relocating area designated for housing within 1,000 feet of the official's property and redesignating the area as open space because it is reasonably foreseeable the decisions may change the character or market value of the Councilmember's interest in property. However, it may be possible to segment other subsequent decisions to allow the official to take part in decisions in which the official does not otherwise have a disqualifying conflict of interest.

Revolving Door

Ahmad Shah

[A-23-138](#)

Where the former agency supervisor had no participation in the agency's design contract with a private firm or the subcontract for particular design work under the agreement, as an agency employee or supervisor, the former supervisor is not prohibited from participating in this contract as a subcontractor's design team member or project manager to implement the agreement under the permanent ban. Under the one-year ban, the former supervisor may meet with the former agency's engineers on the project so long as the meetings are part of services to administer, implement, or fulfill the requirements of the existing contract.

Dushyant Pathak

[A-23-078](#)

The permanent ban prohibits a former state employee from advising a biotechnology company on the renewal of a letter of intent with former agency where the former employee directly supervised the staff responsible for negotiating all intellectual property agreements, including the letter of intent with the company.

Anniken Lydon

[A-23-084](#)

A former state employee is not subject to the permanent ban in regard to a matter she has knowledge of from her state work where the matter did not constitute a proceeding before a state agency. In regard to an existing permit with a specific party she worked on with the state, the permanent ban prohibits her from working on matters related to the existing permit for her new employer. And in regard to a pending permit, the permanent ban prohibits her from assisting or advising her new employer on this proceeding.

Section 1090

Diana Varat

[A-23-011](#)

City Councilmember who performs contract work for a Company has a conflict of interest under Section 1090 in any contract between the City and the Company. However, the "remote interest" exception under Section 1091(b)(2) applies because the Company has 10 or more other employees, the Councilmember was an employee or agent of the Company for at least three years prior to taking office in December 2020, the Councilmember does not own more than 3 percent shares of stock in the Company, and the Councilmember would not provide services relating to the proposed projects and would not participate in formulating a bid. Accordingly, the City is not prohibited from entering the contract provided that the Councilmember does not participate in the decisions.

Karl Berger

[A-23-035](#)

Donations solicited by city officials for a charitable fund to benefit victims of a mass shooting are not "contributions" for purposes of Section 84308. However, elected city officials, who solicit donations totaling \$5,000 or more from one source must complete a Form 803 Behested Payment Report. Nonetheless, barring any other economic interest in the decision, the Act's conflict of interest provisions do not prohibit city officials from participating in city decisions directly or indirectly involving the charitable fund's partner, a 501(c)(3) charitable foundation, and Section 1090 does not prohibit the city from entering into further agreements with the foundation because the City Treasurer has only a noninterest in the foundation as a non-compensated officer of the fund.

Sky Woodruff[A-23-063](#)

Mayor has a financial interest in contracts related to a development project resulting from her interest in her nonprofit employer when a client of her nonprofit firm is also a member of the Development Team. Accordingly, she is prohibited from participating in City Council decisions related to a ballot measure seeking funding for the Project, an essential preliminary step in reaching an agreement with the Development Team. However, the Mayor's interest is remote and 1090 does not prohibit the City Council from making the decisions. Additionally, once the agreement to acquire property for a library has been finalized, the Mayor is not prohibited from taking part in subsequent decisions related to the design and construction of the new library and the surrounding public open spaces. And, so long as considered independently and outside of any negotiations regarding the Project, the Mayor is not prohibited from taking part in decisions regarding the formation of an enhanced infrastructure financing district or on-street parking ordinance in the vicinity of the Project.

Anne E. Branham[A-23-064](#)

Under Section 1090, a Conservation District may enter agreements to hire consultants for projects who have previously assisted in the grant applications for that project if it is agreed on before the grant application process that the consultant who assisted in the grant application will be awarded the subsequent contract, if the application is successful, and there is no discretion to hire a different consultant.

Neal Latt[A-23-107](#)

Under the Act, a member of a water district board of directors has a prohibitive financial interest in a water connection decision where the member is employed by the Native American Tribe that is a party to and subject of the decision. (Regulation 18702.3(a)(1).) The exemption from the definition of income for "state, local or federal" government salaries does not apply to Native American Tribes, which are akin to a sovereign government. The water district board may enter into the contract pursuant to Section 1090, as the salary from a government entity meets the definition of a "noninterest" in Section 1091.5(a)(9), where the decision does not directly involve the department of the government entity that employs the member, so long as the interest is disclosed to the water board at the time of consideration of the contract, and the member's interest is noted in the water board's official record.

Abel Salinas[A-23-056](#)

District board members for a water agency who receive a per diem from their member agency to attend district board meetings, and others board members who have voluntarily waived their statutory attendance fee, each have a financial interest in a future contract between the district board and their member agency under Section 1090. However, because those members have a noninterest in the contract pursuant to Section 1091.5(a)(9), they may participate in the decisions provided they disclose their interest in the contract to the District Board and the interest is noted in the District Board's records.

Lauren B. Langer[A-23-100](#)

Under Section 1090, Mayor Pro Tem is not prohibited from taking part in contracts between the City and a nonprofit organization he serves as a noncompensated board member when one of the primary

purposes of that organization supports the functions of the City by promoting the health and general welfare of the City's citizens. However, for events located near sources of income to the official including restaurants and a nightclub, it is reasonable foreseeable the events would have a material financial effect on the official's interest based on the facts provided. Absent additional information regarding the official's interests, we must conservatively advise that the Mayor Pro Tem recuse himself from decisions pertaining to the events.

Rachel H. Richman

[A-23-110](#)

The Act generally prohibits two city officials who own rental properties from taking part in decisions whether to issue an RFP for a consultant to perform an analysis regarding the potential implementation costs and fees for property owners in connection with a rent control program, and which consultant to eventually hire, because their real property interests in their rental properties would be the "subject" of the decisions under Regulation 18702.2(a)(3) and (5).

Lauren B. Langer

[A-23-119](#)

Under Section 1090, a City may enter a second contract with the same Firm for the installation of a pre-engineered metal building notwithstanding the initial contract for the design of the building. Because the Firm would only be providing design services to the City under the first contract and would not be engaging in or advising the City on public contracting, the City is not prohibited from entering the second contract with the Firm.

Pete Benavidez

[A-23-122](#)

In general, Section 1090 prohibits a member of a city commission from participating in the making of grants to a nonprofit organization that is a source of income to the official. Prohibited conduct includes taking part in any discussion as a member of the city commission, as well as voting on recommendations to be made to the City Council. However, Section 1090 does not prohibit the Commission from making a recommendation on funding to the organization so long as the official abstains from the decision because the Commission is advisory and the official's interest is remote under Section 1091(b)(1).

Marco A. Martinez

[A-23-033](#)

Mayor has a conflict of interest under the Act and Section 1090 that prohibits him from participating in decisions by the City to sell or lease City property to his employer. Additionally, under Section 1090, the City is also prohibited from selling or leasing City property to the Mayor's employer unless an exception applies. However, while the facts indicate selling or leasing the property to the Mayor's employer may be the best option for the City, this fact does not establish that selling or leasing the property to the employer is necessary. Accordingly, there is no indication that any exception, including the rule of necessity, applies and the City is prohibited from entering a contract to sell or lease the property to the employer.

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 Filer

In the Matter of Sid LaGrande; FPPC No. 23/294. Staff: Christopher B. Burton, Acting Chief of Enforcement and Ginny Brown, Political Reform Consultant. Sid LaGrande, Alternate Commissioner of the Rice Commission, failed to timely file an Assuming Office Statement of Economic Interests, in violation of Government Code Section 87202 (1 count). **Fine: \$200 (Tier One).**

In the Matter of Vincent Andreotti; FPPC No. 23/521. Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Political Reform Consultant. Vincent Andreotti, a Member for the Rice Commission, failed to timely file a 2020 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Fine: \$800 (Tier Two).**

Legislation

None.