



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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June 8, 2023

Lauren Langer  
BBKLaw  
City of West Hollywood  
300 South Grand Avenue, 25th Floor  
Los Angeles, California 90071

Re: Your Request for Advice  
**Our File No. A-23-096**

Dear Ms. Langer:

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

Does the Act prohibit Erick Matos, a planning commissioner for the City of West Hollywood, from taking part in decisions related to 8850 Sunset Boulevard Project (the “Project”) given that he rents an apartment located less than 200 feet from the Project site?

### CONCLUSION

Yes. As explained below, because the Project will have a foreseeable and material financial effect on Commissioner Matos’s leasehold interest in the apartment, the Act prohibits him from taking part in decisions concerning the Project.

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<sup>1</sup> 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.

## FACTS AS PRESENTED BY REQUESTER

You serve as City Attorney for the City and seek this advice on behalf of Commissioner Matos. In the near future, the Planning Commission will consider decisions related to the Project, which consists of the demolition of all existing improvements on the site and the construction and operation of a new 15-story mixed-use hotel and residential building containing approximately 240,000 square feet of floor area. The Project will be located along the south side of Sunset Boulevard and will extend the full city block between Larrabee Street and San Vicente Boulevard. The commercial portion of the Project will include 115 hotel guestrooms with ancillary uses such as meeting rooms, spa/gym, outdoor pools, restaurants, lounges, and retail ancillary to the hotel, as well as a new nightclub space for the existing Viper Room.<sup>2</sup>

According to the DEIR, “[t]he underlying purpose of the project is to revitalize an underutilized block on the Sunset Strip in a manner that maximizes infill development potential.” (DEIR, ES.4, Project Objectives.) Specific objectives include enhancing the full city block “with an integrated, vibrant mix of urban uses that would generate daytime and nighttime activity and activate the pedestrian environment in the project area,” and increasing the housing supply with new market-rate and affordable residential units. (*Ibid.*) With respect to specific impacts, the DEIR states that there will be significant and unavoidable impacts from construction noise (*Id.*, 4-22, Noise) and the Project will increase traffic at the intersection where Commissioner Matos lives (estimated 3,128 daily net new trips), both during construction and once the Project is built (*Id.*, 3.12-9, Project Trip Generation).

Commissioner Matos resides in an apartment that he rents pursuant to a year-long lease. His apartment is located on Larrabee Street, at the same intersection where the Project will be constructed, and less than 200 feet from the Project site.

## 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 public 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 a specified economic interest, including an interest in any real property in which the official has an interest of \$2,000 or more. (Section 87103(b).) An “interest in real property” includes any leasehold in real property located in the jurisdiction owned by the official, where the fair market value is \$2,000 or more. (See Section 82033). Pertinent to these facts, Commissioner Matos has a real property interest in his leased residence.

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

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<sup>2</sup> See 8850 Sunset Boulevard Project Draft EIR1, ES.3, Project Summary (“DEIR”).

interest is a named party in, or the subject of, a governmental decision before the official or the official's agency." It further provides that 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. This also 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, as here, 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.

#### *Leasehold*

The reasonably foreseeable financial effects of a governmental decision on any real property in which a governmental official has a leasehold interest as the lessee of the property is material only if the governmental decision will:

- (1) Change the termination date of the lease;
- (2) Increase or decrease the potential rental value of the property;
- (3) Change the official's actual or legally allowable use of the property; or
- (4) Impact the official's use and enjoyment of the property.

(Regulation 18702.2(c).)

Here, we find that 18702.2(c)(2) and (4) apply to disqualify Commissioner Matos from taking part in decisions concerning the Project. The facts state that all of the existing structures currently at the Project site less than 200 feet from the Commissioner's residence would be demolished and replaced with a 15-story mixed-use hotel and residential building. It will include 115 hotel guestrooms and include meeting rooms, outdoor pools, restaurants, lounges, retail and a new nightclub space for the existing Viper Room. The Project will increase traffic at the intersection where the Commissioner resides and will cause significant construction noise in the immediate area. The ultimate goal of the Project is to revitalize that particular block on the Sunset Strip by bringing a vibrant mix of urban uses to generate daytime and nighttime activity. Based on these facts, the Project will likely impact the potential rental value of the Commissioner's current apartment and impact his use and enjoyment of the property, and he may not therefore take part in the Project's decisions.

Accordingly, because the Project will have a foreseeable and material financial effect on Commissioner Matos's leasehold interest, the Act prohibits him from taking part in decisions concerning the Project.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge  
General Counsel

By: *Jack Woodside*

Jack Woodside  
Senior Counsel, Legal Division

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