



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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July 25, 2025

Steven L. Flower
RWG Law
City of Calimesa
350 South Grand Avenue 37th Floor
Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-25-102

Dear Mr. Flower:

This letter responds to your request for advice on behalf of City of Calimesa (“City”) Councilmember Edgar Garcia 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

Does Councilmember Garcia have a prohibitive financial interest in the Oak Valley Town Center at Summerwind Ranch litigation decisions regarding a developer’s failure to complete public infrastructure improvements, including a road relocation located approximately 331 feet from his residence?

CONCLUSION

Yes, where no clear and convincing facts show that the decisions will not have any measurable impact on the official’s property located within 313 feet of an improvement at issue in the litigation, Councilmember Garcia has a disqualifying financial interest, and may not take part in

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.

the decisions. Additionally, based on the facts provided, the public generally exception does not apply to allow his participation.

FACTS AS PRESENTED BY REQUESTER

Councilmember Garcia is a member of the City Council for the City of Calimesa ("City" or "Calimesa"). All seats on the City Council are elected at-large. Councilmember Garcia was first elected in November 2024. His current term ends in November 2028.

Councilmember Garcia owns a single-family home on Little Leaf Street that is his primary residence. It is located in the Summerwind Specific Plan Area ("Specific Plan"), a very large, multi-phase development plan for the westerly portion of the City. The most southerly portion of the Specific Plan, where his residence is located, is already mostly developed. The northerly (and much larger) portion of the Specific Plan area is being separately and independently developed by different developers.

Under the Specific Plan, the northerly development of the Specific Plan area includes realignment and reconstruction of Roberts Road and related infrastructure improvements. As planned, Roberts Road would become an arterial roadway, running to the west of, and roughly parallel to, the Interstate 10 Highway. Councilmember Garcia's property is located 331 feet from the proposed right-of-way for the realigned Roberts Road and it would have no direct access to the realigned Roberts Road.

There are a total of 4,116 parcels in the City, of which 2891 are residential parcels. There are 131 residential parcels located within 500 feet of the Roberts Road realignment right-of-way and 229 residential parcels located within 1,000 feet of the Roberts Road realignment right-of-way.

The Town Center Project & Pending Litigation

In 2021, the City entered into a Development Agreement with the Oak Valley Development Company ("OVDC") concerning a commercial development project commonly known as "Oak Valley Town Center at Summerwind Ranch" (the "Town Center Project") in the northerly, undeveloped portion of the Specific Plan Area. Under the Development Agreement, OVDC promised to construct certain public improvements, including streets, trails, paseos, parks, and other public facilities to be dedicated to the City or other public entities. These included public improvements both within and outside the boundaries of the Town Center Project. The realignment and reconstruction of Roberts Road and related infrastructure were part of these public improvements. To secure OVDC's obligation to complete the public improvements, the City required OVDC to obtain performance bonds, which were provided by the Everest Reinsurance Company ("Everest").

The pending litigation concerning the Town Center Project arose after OVDC went bankrupt without completing any of the public improvements, and Everest refused to honor its performance bonds. The City filed its complaint in April 2024, seeking damages and costs caused by Everest. The City and Everest are currently engaged in discovery, and mediation is scheduled for August 21, 2025. Trial is currently scheduled for November 3, 2025.

Any funds that the City receives as a monetary damages award or the result of settling the case will very likely be used to complete the public improvements originally promised by OVDC. This includes the realignment of Roberts Road. The City Council anticipates meeting with its legal counsel to discuss these events and other aspects of the pending litigation, including litigation strategy and possible settlement terms, in closed session. The last regularly scheduled City Council meeting before the mediation, which will likely include a closed session discussion of the pending litigation, will be August 18, 2025.

ANALYSIS

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests, distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103 and include any real property in which the official has a direct or indirect interest worth more than \$ 2,000 or more. (Section 87103(b).)

Councilmember Garcia has identified a real property interest in his residence. At issue is whether it is reasonably foreseeable that the pending litigation decisions concerning the Town Center Project will have a material financial effect on Councilmember Garcia's real property interests.

Foreseeability and Materiality

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). For financial interests not explicitly involved in a decision, if the financial effect can be recognized as a realistic possibility and is 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. (Regulation 18701(b).)

For determining the material effect of the decisions on real property interests, we look to the applicable real property materiality standards in Regulation 18702.2. 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 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property. (Regulation 18702.2(a)(7).) However, the financial effect is not material if the decision solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage, or similar facilities. (Regulation 18702.2(d)(1).)

The official's residence is located 331 feet from the proposed right-of-way for the realigned Roberts Road. Any funds that the City receives as a monetary damages award or the result of settling the case will very likely be used to complete the public improvements originally promised by OVDC. This includes the realignment of Roberts Road and the related improvements, a project that concerns more than just repair, replacement, or maintenance of the existing road. Clear and convincing evidence has not been provided that the decision will not have any measurable impact on the official's real property interest and the reasonably foreseeable financial effect of the pending litigation decisions on Councilmember Garcia's property is material under Regulation 18702.2(a)(7). Consequently, unless an exception applies, Councilmember Garcia is prohibited from taking part in the litigation decisions concerning the Town Center Project.

Public Generally Exception

When an official has a disqualifying financial interest under the Act, an official may still participate under the "public generally" exception. Regulation 18703(a) permits a public official to take part in a governmental decision under the Act that affects one or more of the official's interests if the decision's financial effect on the interest is indistinguishable from its effect on the public generally. This standard is met if the official establishes that a significant segment of the public is affected, and the effect on the official's financial interest is not unique compared to the effect on the significant segment. (Regulation 18703(a).) Where the only interest the official has is in their primary residence, a significant segment of the public includes at least 15 percent of residential real property within the official's jurisdiction. (Regulation 18703(b)(2).) A unique effect on an official's interest includes a disproportionate effect on the official's real property due to its proximity to the project that is the subject of the decision.

Here, the facts do not establish that 15 percent of the residential parcels in the City will be impacted by the pending litigation decisions. Therefore, Councilmember Garcia has a prohibited financial interest in the pending litigation decisions and may not take part in the decisions in any manner.²

² Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. However, we need not further consider Section 1090 as the facts do not indicate that Councilmember Garcia has a financial interest in the settlement decision related to his property for purposes of Section 1090. We have advised in past letters that that "an official has a financial interest in a contract only when there is a sufficient connection between the contract in question and the interest held by the official" and that an official does not have a financial interest in a settlement decision under Section 1090 solely because the official owns property in proximity to the area at issue. (See for example, *Van Mullen* Advice Letter, No. A-25-075 [official with a residence 900 feet from an oil pipeline does not have a financial interest under Section 1090 in litigation settlement agreements related to the change of operator and owner of the pipeline permit solely because the official's property is near a pipeline at issue in the litigation.]; and *Bordsen* Advice Letter, No. A-17-059, [several officials did not have a financial interest in a contract involving frontage road improvements affecting the officials' real properties and business interests, simply because the officials' interests were adjacent to the project and would peripherally benefit along with numerous other properties and business along the route.] .)

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

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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