



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Cardenas, Hatch, and Wilson

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: November 24, 2020

The following advice letters have been issued since the October 30, 2020, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the December 2020 Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at:

<http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Section 84308

Chad E. Roberts

[A-20-124](#)

Section 84308(d) prohibits members of a development group from contributing more than \$250 to officers of a local agency formation commission where the decisions remaining before the commission, with respect to the formation of a special district proposed by the development group, are not “purely ministerial.” Under such circumstances, the proceeding is still considered to be “pending before” the commission.

Conflict of Interest

Roxanne Diaz

[A-20-113](#)

The Act prohibits a city councilmember from taking part in decisions relating to a high-end and low-density residential development project consisting of 43.17 currently vacant acres and located between 500 to 1,000 feet from the councilmember’s residential real property because it is reasonably foreseeable that those decisions would have a material financial effect on the councilmember’s residence.

Santiago M. Escruceria

[A-20-135](#)

A special district commissioner may submit comments to a county board of supervisors on behalf of the district regarding a specific plan amendment, even though his employer submitted comments opposing elements of the specific plan amendment, where the specific plan amendment would have no financial effect on the employer. The commissioner may also take part in decisions on providing services to the specific plan amendment applicant because such decisions would have no financial effect on the commissioner’s employer.

Revolving Door

Emily B. Erlingsson

[I-20-139](#)

The permanent ban applies to former department director in his private employment with a trade association, and prohibits his participation to the extent a matter is a “judicial, quasi-judicial or other proceeding” in which he previously “participated” as those terms are defined under the Act. However, the permanent ban does not apply to matters that involve the making of rules or policies of general applicability.

Section 1090

Christopher J. Diaz

[A-20-080](#)

Section 1090 does not prohibit a former councilmember from becoming a tenant in the Town-owned housing complex because (1) the former councilmember’s interest in a residential lease arises in the context of his or her role as a constituent of the public agency and recipient of its services; (2) the service at issue is broadly available to all those whom are similarly situated and is not narrowly tailored to specially favor an official or group of officials; and (3) the service at issue is provided on substantially the same terms as for any other constituent. Accordingly, any former councilmember has a noninterest in such residential lease pursuant to Section 1091.5(a)(3).

Abel Salinas

[A-20-110](#)

Section 1090 does not prohibit a water district from contracting with a firm where a director on its board has a consulting arrangement with the firm if the district’s general manager has the independent authority, not subject to review by the board, to enter such contracts. In addition, because the director has only a remote interest in those contracts, the district may enter contracts with the firm so long as the director abstains from any participation and follows the requirements specified in Section 1091.

Glen R. Googins

[A-20-123](#)

A councilmember may take part in a decision on a proposed lease renewal with a civic organization for the use of a city-owned building located in a park which is within 500 feet of the boundaries of rental properties owned by the councilmember because clear and convincing evidence indicates that the lease renewal would have no measurable impact on his properties. Likewise, there is no indication of a financial effect on the tenants of the properties or the councilmember’s rental business. Under Section 1090, the Councilmember has a noninterest in the lease renewal, as a member of the nonprofit civic organization.

Matthew Flood

[A-20-133](#)

Section 1090 does not prohibit a city from issuing grant funds to qualifying tenants of councilmembers because (1) the councilmembers’ interests in the grant funds arises in the context of the affected official’s or employee’s role as a constituent of the public agency and recipient of its services; (2) the service at issue is broadly available to all those whom are similarly situated and is not narrowly tailored to specially favor an official or group of officials; and (3) the service at issue is provided on substantially the same terms as for any other constituent. Accordingly, the councilmembers have a noninterest in such funds pursuant to Section 1091.5(a)(3).