



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Wilson, and Wood

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

Subject: Advice Letter Report

Date: February 24, 2023

The following advice letters have been issued since the January 27, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the March 16, 2023, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Christopher J. Diaz [A-22-129](#)

Mayor is prohibited from taking part in decision to approve a development project, which would add a significant number of developable single family home parcels, in an exclusive area, to a 48 acre property that is largely undeveloped and located within 1,000 feet of the official's residence. Under these facts, it is reasonably foreseeable that the decision will have a material financial effect on an official's interest in residential property under Regulation 18702.2(a)(8)(E) in that the decision may change the market value of the official's residence.

Heather L. Stroud [A-23-001](#)

City officials are not prohibited from taking part in decisions related solely to the selection of a consultant to develop an area plan, despite the officials owning property and businesses within 1,000 feet of the proposed Area Plan boundaries. So long as the decision is limited to the selection of a consultant and does not involve specific projects or development standards for identified properties or parcels, it is not foreseeable the decision will have a material financial effect on any of the officials' economic interests.

Michael McDonnell [A-23-003](#)

Mayor is prohibited from taking part in a vote to provide funding to a homeless shelter within 500 feet of two of the Mayor's properties because it is reasonably foreseeable the decision will have a material effect on the properties. The legally required participation exception does not apply because the City Council has the minimum number of members to conduct the vote even if the Mayor recuses himself.

Sandra Maurer[I-23-008](#)

Councilmember is likely disqualified from taking part in City decisions concerning the use of smart water meters and electromagnetic fields (EMF) because of the nexus between the decisions and income previously received from an entity established to oppose smart water meters and EMF emitting devices during the preceding 12 months. However, we cannot determine whether an exception to the Act's conflict of interest provisions, including the Public Generally Rule, allows for Councilmember's involvement in a specific decision until an actual decision pending before the City is identified.

Zaynah N. Moussa[A-23-010](#)

Under the Act's conflict of interest provisions, Mayor Pro Tempore has a potentially disqualifying financial interest in decisions related to proposed zoning changes for an area in which she leases her residence. Nonetheless, the public generally exception applies to the decision because the effect on her financial interest is indistinguishable from its effect on the public generally. However, the Act prohibits Councilmember and Housing Commissioner from taking part in the decisions because it is reasonably foreseeable the decisions will have a material effect on their interests, which include residences and a parking lot located within the boundaries of the area subject to the decision. For purposes of the Councilmember and the Housing Commissioner, the public generally exception does not apply because a "significant segment" of the public will not be affected, and the officials' own multiple interests in real properties.

Eugene J Solomon[A-23-012](#)

A candidate for City Treasurer is not required to recuse himself from participating in advisory committee recommendations regarding the Treasurer's office. Even if the candidate meets the definition of a public official, it is not reasonably foreseeable that the recommendations would have a material financial effect on the candidate's personal finances as any affect would be contingent upon the intervening events including the City Council approving the recommendations to be placed on a ballot, successful approval of the recommendations by voters, and the candidate's successful election to a future term of office.

Section 1090**Sky Woodruff**[A-22-121](#)

Under Section 1090, Mayor who is also employed by a nonprofit that provides services related to affordable housing development has a prohibited financial interest in contracts related to a redevelopment project where her employer has an ongoing business relationship with an entity that is part of the project proponent's redevelopment team. However, the City may enter into these contracts under the remote interest exception of Section 1091(b)(1), provided the Mayor discloses her interest, it is noted in the City Council's records, and she properly recuses herself from the proceedings.

Mitchell D. Dean[A-22-127](#)

Financial account firm is not subject to Section 1090 for purposes of subsequent implementation plan contract where the firm was previously retained to create an economic development plan, which led the City Council to independently seek a consultant to create an implementation plan

to further the goals of the economic development plan. Based on the facts provided, the firm was not aware of the necessity for an implementation plan at the time of creating the economic development plan, did not recommend the implementation plan, and had no duties to engage in or advise on the hiring of a consultant to create the implementation plan. Therefore, the firm may be considered in the City's hiring process for a consultant to create the implementation plan.

Margaret Long[A-22-128](#)

County Supervisor has a prohibited financial interest in the renewal or update of a contract between the County and his business for tenant screenings under Section 1090. The Supervisor also has a prohibited financial interest in the County's use of his business for preemployment screenings and fingerprinting services, as the transactions are contractual. Accordingly, the County may not contract to use the Supervisor's business for tenant screenings or use the business for fingerprinting services. The rule of necessity does not apply as other options are available for these services, even if the options are less convenient. However, the Supervisor only has a remote interest, as a landlord to the contracting party, for housing support services and housing assistance grants offered to tenants under lease with his business. Accordingly, the County is not prohibited from providing these services or grants provided the Supervisor properly recuses himself from the decisions.

Shiri Hoffman[A-22-130](#)

Under Section 1091.2, County Board of Supervisors is permitted to contract with the County's Workforce Development Board to implement a plan prepared by the Workforce Development Board because Section 1091.2 applies, exempting contracts entered into by a Workforce Development Board from Section 1090.

Todd Marker[A-23-007](#)

Councilmember has a prohibitive financial interest under Section 1090 in a contract decision involving her broadcasting business, co-owned with her spouse, to provide free public concerts for the City and in a contract decision for the City to purchase radio advertisements from the business. Moreover, the rule of necessity is not applicable because the facts provided fail to establish that the City contracting with the business is necessary. Accordingly, the City may not contact with the Councilmember's business for these services.

Neysa Hinton[A-23-015](#)

Section 1090 prohibits City from hiring Mayor as the City Manager where the City Council has already taken action to fill the position including discussing the position in closed session, establishing a subcommittee to begin the process of filling the position, and appointing the Mayor to the subcommittee.