



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

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

Subject: Advice Letter Report

Date: December 3, 2024

The following advice letters have been issued since the October 28, 2024, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the January 16, 2025, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Sarah Carrillo

[A-24-111](#)

County supervisor is disqualified from taking part in decisions concerning amendments to a short-term vacation rental ordinance because it is reasonably foreseeable the financial effect on the supervisor's rental will be material under the standards in Regulation 18701(a) and Regulation 18702.2(a)(5). In addition, the public generally exception will not apply because the effect of the decisions on his interest in the rental property will be unique compared to the significant segment of the public generally.

Michael Guina

[A-24-121](#)

Where a proposed project site consists of two parcels and the official's real property is less than 500 feet from the nearest parcel, and between 500 feet and 1,000 feet from the second parcel, the distance between the project site and the official's property interests for purposes of applying the Act's conflict of interest provisions is the distance to the nearest parcel. Under applicable regulations, the official is prohibited from taking part in project-related decisions unless there is clear and convincing evidence the project would have no measurable impact on the official's real property.

Celena H. Chen

[A-24-130](#)

The Act does not prohibit a councilmember from taking part in decisions related to either a residential redevelopment project or a commercial redevelopment project because it is not reasonably foreseeable that decisions concerning either project will have a material effect on his leasehold interest in his apartment. Based on the facts provided, both projects are consistent with existing residential and commercial uses and developments in the immediate area, the local real estate market remains strong, and there are no other indications that the decisions may impact his use and enjoyment of his apartment or its potential rental value.

Gifts

Joshua M. Caplan[I-24-118](#)

An official who requests and personally distributes tickets to members of the public in accordance with a ticket policy appropriately adopted under Regulation 18944.1 does not receive a “gift” for purposes of the Act.

Revolving Door

Christian Bisher[I-24-114](#)

The one-year ban specific to air pollution control districts in Section 87406.1 applies to a former designated employee who worked for an air quality district. The ban generally prohibits the former employee from communicating with the individual’s former agency for one year after leaving the agency for the purpose of influencing a regulatory action.

Section 84308

Patrick Burt[A-24-110](#)

Section 84308 does not apply to proceedings permanently closing portions of downtown business areas to car traffic because the proceeding does not involve a license, permit, or other entitlement for use. Based on the facts provided, the changes will affect a diverse set of stakeholders; were not applied for, nor were they formally or informally requested by a party; and do not involve a contract between the agency and a party.

Section 1090

Jeremy Lee Holm[A-24-100](#)

A water district board may acquire an easement on property owned by a board member’s business through a court-supervised condemnation proceeding, as this does not trigger a Section 1090 prohibition. However, the board member is disqualified under the Act and Section 1090 from participating in any decisions related to the board’s actions to initiate the condemnation proceeding.

Gary S. Winuk[A-24-103](#)

Section 1090 does not prohibit a district commissioner, whose private company has a consulting contract with a state agency, from taking part in the making of a district contract with the same agency because the noninterest exception under Section 1091.5(a)(9) applies where the state agency’s contract with the district is with a unit that is different than the one involved in contract with the commissioner’s company. In addition, it is not reasonably foreseeable that the district’s decisions regarding the district contract will have a material effect on the commissioner’s interest in his business or the state agency as a source of income.

William S. Smerdon[A-24-108](#)

A city councilmember, who is also employed by the county, has a noninterest in a tax-sharing agreement that will be entered into as a part of the city's annexation proceedings under Section 1091 because the agreement does not result in a financial gain to the official and does not directly affect the official's department with the county. Accordingly, the city council may enter the agreement with the county, and the councilmember may participate, so long as this interest is disclosed to the city council and noted in its official records. Any such contract would not implicate the Act due to the "government salary" exception.

Julia M. Lew[A-24-119](#)

Under the rule of necessity, a community services district may purchase the board president's parcel to construct a new water well as part of a larger project. Based on the facts provided, the rule of necessity applies because providing safe drinking water to the community is an essential function of the district, the district is the agency funded and authorized for the project, and the purchase is an actual necessity for the project after all alternatives have been explored by the agencies and consultants involved.

Yolanda M. Summerhill[A-24-128](#)

A city may enter into a reimbursement agreement with a homeowners association, notwithstanding a councilmember membership in the association. Under the rule of necessity, the agreement is required to fulfill the city's essential duties because the agreement will ensure that the association has a single contractor install irrigation and landscaping in an area adjacent to a city roadway, the responsibility for maintenance is unsettled, the area has required city weed abatement, and the association will assume all ongoing maintenance.