



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

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

Subject: Advice Letter Report

Date: November 27, 2023

The following advice letters have been issued since the October 27, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the January 18, 2024, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Taylor Anderson

[A-23-129](#)

Under the Act, Councilmember is not prohibited from taking part in governmental decisions related to the City’s Open Channel Project, where the proposed improvements maintain the same general uses of the space such that it is not reasonably foreseeable the Project would have a material financial effect on the Councilmember’s property or other financial interests. To the extent that the Project will be directed at the parcel with a park and waterway approximately 800 feet from the Councilmember’s property, with necessary construction only on a small portion of parcel adjacent to the Councilmember’s property, the distance to the construction site is the appropriate measurement to determine the applicable materiality standard for the property under Regulation 18702.2.

Heather S. Baker

[I-23-147](#)

Under the Act, Mayor is potentially disqualified from taking part in City Council decisions pertaining to a Rent Control Ordinance and Tenant Protections Ordinance, where the Mayor owns several rental properties, at least some of which are subject to those ordinances. However, because the Mayor owns 3 or fewer rental properties, the public generally exception pertaining to governmental decisions involving rental properties will apply to permit his participation so long as the ordinances apply to all other residential rental property and the Mayor has no other interest impacted by the decision other than the interests resulting from the rental properties.

Katherine Wisinski

[A-23-155](#)

Planning Commissioner with a residence in a residential golfing community, and approximately 920 feet from a site that includes a shuttered golf course clubhouse, has a disqualifying financial interest in the decision to repurpose the clubhouse as a restaurant and bar as well as in the decision to construct a new pool, cabana, restrooms, and a full-service spa, lounge, and wine bar building on the site. It is reasonably foreseeable these decisions would have a material financial

effect on the official's property resulting from the impact on the area's amenities and a possible change to the market value of the residence. (Regulation 18702.2(a)(8).)

Keith F. Collins

[A-23-162](#)

The Councilmember's adult daughter is not a "dependent" child and not "immediate family" for purposes of determining a financial interest for an official under Section 82029. Therefore, the Councilmember does not have a financial interest in the decisions involving the Uptown Specific Plan area merely because a business that employs her adult daughter is located within its boundaries.

Gifts

Vyckie Lee

[A-23-146](#)

Honorary membership at the local Chamber of Commerce, valued at \$230, is not income, gift or prohibited honorarium because the Supervisor did not use the membership benefits and returned the membership immediately upon notice of the membership. Accordingly, the value of the membership need not be reported on the Supervisor's annual SEI.

Revolving Door

Yuvaraj Sivalingam

[I-23-154](#)

The permanent ban applies to former state official in his private employment as a policy advisor with a law firm and prohibits his participation in a government decision if the 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 84308

Amanda Freeman

[A-23-145](#)

Although the contract never came before the City Council for the Councilmembers' consideration, a contract for ambulance services executed by the City Manager was a decision "by the agency" for purposes of Section 84308. Thus, the contracting party is prohibited from making any contribution greater than \$250 to a councilmember for 12 months following the date the final decision was rendered.

Inna Zazulevskaya

[I-23-157](#)

The sale of property by Board of Supervisors pursuant to the competitive bidding requirements of Section 25520, *et seq.* (which include public notice, resolution with a stated minimum sale price, sale terms, set time for consideration of the bids, and that the contract be awarded to the highest responsible bidder or that all bids be rejected and the property pulled from sale) meets the definition of a "competitively bid contract" that is not subject to the requirements and restrictions in Section 84308.

Section 1090**Joshua Nelson****[A-23-113](#)**

So long as the decisions of Airport District would not allow favoritism toward Director who rents a hangar, and would not occur on terms tailored to the Director's particular circumstances, the noninterest exception set forth in Section 1091.5(a)(3) would apply, and Section 1090 would not prohibit the District from approving the decisions involving hangar improvement, a rate study, and a pilot incentive program, that may impact hangar rental rates. Under the Act, the Director will not have a conflict of interest in decisions involving the pilot incentive program, because, based on the facts presented, it does not appear reasonably foreseeable that the decision will have an effect on his personal finances of \$500 or more in any 12-month period. However, the Director will have a conflict of interest in any decisions involving hangar improvements and the rate study as it is reasonably foreseeable that the decision will have a financial effect on his personal finances of \$500 or more in any 12-month period.

Karen Goh**[A-23-136](#)**

City may enter into a contract with a nonprofit entity even though the Mayor is the President/CEO of the entity and compensated by the entity. Pursuant to Section 1091, the Mayor has a remote interest in the contract because the entity is a nonprofit. Therefore, as long as the Mayor states her interest on the record and recuses herself from the decision, the City may enter a contract with the entity.

Jill D.S. Maland**[A-23-139](#)**

Under the Act and Section 1090, Deputy Mayor does not have a disqualifying financial interest in potential contracts between the City and a public nonprofit university to lease city property for the expansion of a university program where the Deputy Mayor is employed by the University. Under the Act, the deputy mayor does not have a source of income interest in the University because he receives a government salary, which is not "income" for purposes of the Act. Under Sections 1090 and 1091.5, the Deputy Mayor would have a "noninterest" in prospective contracts between the government entities, and the City would not be prohibited from contracting with the University and the Deputy Mayor would not be prohibited from participating in the decisions.

Jose M. Sanchez**[A-23-156](#)**

Councilmember is prohibited under the Act from taking part in decisions concerning amended or renegotiated contracts between the City and utilities company, if he accepted employment with the company, because the company would be a named party in the governmental decisions, and it is reasonably foreseeable the decisions would have a material financial effect on the company. Moreover, the Councilmember would be disqualified because of the impermissible nexus between the decisions and income he receives from the company under Regulation 18702.3(b). Finally, the Councilmember would have a prohibitory financial interest under Section 1090 in the contract decisions. However, the rule of necessity would apply to allow the City Council to amend or renegotiate the contracts at issue.

Roxanne Diaz

A-23-161

Councilmember who sold shares of stock in a waste management business does not have a financial interest under the Act in the City's upcoming decisions on the waste services agreement with the business, as the sale proceeds meet the exemption from the definition of income under Section 82030(b)(12). Likewise, the Councilmember does not have a financial interest in the contract decisions under Section 1090 because the Councilmember is no longer a stockholder and the facts do not indicate any other financial ties between the Councilmember and the business.