



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 and Commission Review
Date: July 28, 2023

The following advice letters have been issued since the June 30, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the August 17, 2023, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Section 84308

Adrian Granda

[I-23-102](#)

A “strong mayor” empowered by a city charter to approve or veto a city council decision on a license, permit, or other entitlement for use decision may exercise that power without violating Section 84308 even if the mayor has a financial interest in the decision because the mayor’s participation is legally required. However, the legally required participation exception does not excuse other violations of Section 84308 and a strong mayor taking part in an entitlement proceeding pursuant to the exception is still required to refrain from soliciting, directing, or receiving contributions from parties/participants while the proceeding is pending and for 12 months thereafter, and must also make all necessary disclosures.

Conflict of Interest

Donna Mooney

[A-23-091](#)

Where an official’s residential property is located within 500 feet of a zone subject to design standards intended to streamline types of multi-family housing developments, the official is prohibited from taking part in the decision absent clear and convincing evidence that the decision will have no measurable impact on the official’s property. Additionally, it is reasonably foreseeable that the design standards decision would increase or decrease the potential rental value of an official’s leased property by encouraging or discouraging types of multi-family and mixed-use housing developments within the same zone as the leased property.

Heather L. Stroud

[A-23-104](#)

City Councilmember may take part in decisions related to a project developing a new recreation center when the Councilmember owns real property 2,000 feet from the project. Under the Act, it is presumed that there is no material financial effect on property more than 1,000 feet from a decision, unless there is clear and convincing evidence that decisions surrounding the project will have a substantial effect on the property.

Jolie Houston[A-23-108](#)

It is not reasonably foreseeable that decisions to install a license plate reader will have a material effect on Vice Mayor's property within 500 feet of the camera. Based on the facts provided and nature of the decisions, there is clear and convincing evidence that the decision will have no measurable impact on the property. There is also no indication that the camera would have an effect on any interest in a rental business or tenants of the rental business should the official rent the property in the future. Accordingly, the Vice Mayor may take part in the decisions.

Kevin G. Ennis[A-23-106](#)

Mayor and Mayor Pro Tem may participate in a decision on a Zoning Code Update, as long the decision is segmented so as to exclude decisions on those zones in which the officials have respective interests and final decisions affecting these zones are considered first without the disqualified officials taking part.

Revolving Door**Dushyant Pathak**[A-23-078](#)

The permanent ban prohibits a former state employee from advising a biotechnology company on the renewal of a letter of intent with former agency where the former employee directly supervised the staff responsible for negotiating all intellectual property agreements, including the letter of intent with the company.

Anniken Lydon[A-23-084](#)

A former state employee is not subject to the permanent ban in regard to a matter she has knowledge of from her state work where the matter did not constitute a proceeding before a state agency. In regard to an existing permit with a specific party she worked on with the state, the permanent ban prohibits her from working on matters related to the existing permit for her new employer. And in regard to a pending permit, the permanent ban prohibits her from assisting or advising her new employer on this proceeding.

Section 1090**Diana Varat**[A-23-011](#)

City Councilmember who performs contract work for a Company has a conflict of interest under Section 1090 in any contract between the City and the Company. However, the "remote interest" exception under Section 1091(b)(2) applies because the Company has 10 or more other employees, the Councilmember was an employee or agent of the Company for at least three years prior to taking office in December 2020, the Councilmember does not own more than 3 percent shares of stock in the Company, and the Councilmember would not provide services relating to the proposed projects and would not participate in formulating a bid. Accordingly, the City is not prohibited from entering the contract provided that the Councilmember does not participate in the decisions.

Karl Berger[A-23-035](#)

Donations solicited by city officials for a charitable fund to benefit victims of a mass shooting are not “contributions” for purposes of Section 84308. However, elected city officials, who solicit donations totaling \$5,000 or more from one source must complete a Form 803 Behested Payment Report. Nonetheless, barring any other economic interest in the decision, the Act’s conflict of interest provisions do not prohibit city officials from participating in city decisions directly or indirectly involving the charitable fund’s partner, a 501(c)(3) charitable foundation, and Section 1090 does not prohibit the city from entering into further agreements with the foundation because the City Treasurer has only a noninterest in the foundation as a non-compensated officer of the fund.

Sky Woodruff[A-23-063](#)

Mayor has a financial interest in contracts related to a development project resulting from her interest in her nonprofit employer when a client of her nonprofit firm is also a member of the Development Team. Accordingly, she is prohibited from participating in City Council decisions related to a ballot measure seeking funding for the Project, an essential preliminary step in reaching an agreement with the Development Team. However, the Mayor’s interest is remote and 1090 does not prohibit the City Council from making the decisions. Additionally, once the agreement to acquire property for a library has been finalized, the Mayor is not prohibited from taking part in subsequent decisions related to the design and construction of the new library and the surrounding public open spaces. And, so long as considered independently and outside of any negotiations regarding the Project, the Mayor is not prohibited from taking part in decisions regarding the formation of an enhanced infrastructure financing district or on-street parking ordinance in the vicinity of the Project.

Neal Latt[A-23-107](#)

Under the Act, a member of a water district board of directors has a prohibitive financial interest in a water connection decision where the member is employed by the Native American Tribe that is a party to and subject of the decision. (Regulation 18702.3(a)(1).) The exemption from the definition of income for “state, local or federal” government salaries does not apply to Native American Tribes, which are akin to a sovereign government. The water district board may enter into the contract pursuant to Section 1090, as the salary from a government entity meets the definition of a “noninterest” in Section 1091.5(a)(9), where the decision does not directly involve the department of the government entity that employs the member, so long as the interest is disclosed to the water board at the time of consideration of the contract, and the member’s interest is noted in the water board’s official record.