



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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NOTICE

**Fair Political Practices Commission Interested Persons Meeting
December 17, 2018, 10:30 a.m.
1102 Q Street, Suite 3000 Hearing Room
Sacramento, CA 95811**

Fair Political Practices Commission staff will hold an Interested Persons meeting on December 17, 2018, at 10:30 a.m. to solicit public input regarding the proposals to amend Regulation 18702.2. The Commission will consider the proposed amended regulation at its hearing on January 17, 2019.

BACKGROUND/OVERVIEW:

Governing Statutes. The Act's conflict of interest provisions ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Section 87100 prohibits a public official from using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Under Section 87103(b), a public official has a financial interest in a decision within the meaning of Section 87100 if it is "reasonably foreseeable" that the decision will have a "material financial effect" on the certain enumerated interests including an interest in real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103(b).)

Existing Regulation. Regulation 18702.2 provides the materiality standards for interests in real property. Under Regulation 18701 and Regulation 18702.2(a)(1)-(6), an effect on an interest in real property is foreseeable and material whenever a decision explicitly involves the property. When property is not explicitly involved in the decision, the materiality standards are provided in Regulation 18702.2(a)(7)-(12), which provides that a foreseeable effect is material if the decision changes the property's development or income producing potential, changes the property's highest or best use, changes the property's character, affects real property located within 500 feet of the official's real property, or is of such a nature that the decision would influence the market value of the official's property.

Existing Regulation 18702.2(a)(11), the "500 foot rule," provides that a foreseeable effect is material if the governmental decision:

Would consider any decision affecting real property value located within 500 feet of the property line of the official's real property, other than commercial property containing a business entity where the materiality standards are analyzed under Regulation 18702.1. Notwithstanding this prohibition, the Commission may provide written advice allowing an official to participate under these circumstances if the Commission determines that there are

sufficient facts to indicate that there will be no reasonably foreseeable measurable impact on the official's property....

Under this existing standard, determining materiality is straightforward where a property is within 500 feet of the property subject to the decision. However, determining materiality where a property is more than 500 feet from the property subject to the decision is more complicated and subjective, and requires a comprehensive review of all factors that potentially affect the value of the property.

Amendments to Regulation 18702.2. Commission staff is currently soliciting public comments regarding Regulation 18702.2 and the materiality standards for interest in real property. In particular, staff is interested in comments regarding its proposal to amend the materiality standard to establish a bright-line rule and allow an official to participate in a decision if the official's property interest is a sufficient distance from the property subject to the decision.

Additionally, items for discussion identified by staff include:

- Requiring that interests in business properties be evaluated under the materiality standards for real property.
- Clarifying that an official is disqualified from a decision affecting a leasehold interest in property if the decision will affect the rental value of the property.

ADDITIONAL INFORMATION:

Proposed language for Regulation 18702.2 is attached for review, and can also be found at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices/ip-meetings-resource-page.html>.

You may participate in this interested persons meeting in person at the Commission's offices.

You may also listen to and participate in this interested persons meeting by teleconference by calling: (877) 411-9748; access code 723284.

The Commission staff invites written comments addressing these topics. Address comments regarding all regulations referenced in this notice to John Feser at jfeser@fppc.ca.gov or (916) 322-5660.

For questions about this meeting, you may contact Ginny Lambing at glambing@fppc.ca.gov or (916) 322-5660.