

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement •• Statements of Economic Interest  
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

February 6, 1984

Steven A. Amerikaner  
City Attorney  
City Hall  
De La Guerra Plaza  
P.O. Drawer P-P  
Santa Barbara, CA 93102

Re: Your Request For Advice, Our  
Advice No. A-84-007

Dear Mr. Amerikaner:

Thank-you for your request for advice on behalf of Santa Barbara City Councilman Sid Smith. The facts, as stated in your letter, are that Mr. Smith owns seven rental units within the City limits. He has owned the units for approximately 15-20 years and rents them on a month-to-month tenancy.<sup>1/</sup> His tenants have lived in the units for between 5 and 15 years and Mr. Smith has never had to terminate a tenancy.

During 1984, the Santa Barbara City Council will consider adopting a "Just Cause for Eviction" Ordinance.<sup>2/</sup> This will require a landlord to specify in writing his or her reason for seeking an eviction. The ordinance will also restrict a landlord's discretion by permitting evictions only for specified reasons.<sup>3/</sup> Your question is whether the Political Reform Act

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<sup>1/</sup> The cumulative value of the units is \$400,000. In 1982, the net rental income from the units was \$20,000. Mr. Smith is not holding a first or last month's rent, nor a cleaning deposit for any tenant.

<sup>2/</sup> There has already been some discussion of the Ordinance.

<sup>3/</sup> Some of the reasons are: 1) The tenant fails to pay the rent, habitually pays the rent late, or gives checks which are frequently returned because of insufficient funds; 2) the tenant is using or permitting a rental to be used for an illegal purpose; or 3) the tenant refuses the landlord reasonable access to the rental unit as provided by state or local law.

allows Mr. Smith to participate in the City Council's decision on the Ordinance.

Discussion

Government Code Section 87100<sup>4/</sup> provides that no public official shall make, participate in the making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. An 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:

\* \* \*

(b) Any real property in which the public official has a direct or indirect interest worth more than \$1,000.

Section 87103(b).

Mr. Smith has real property interests in the seven rental units. A decision will have a "material financial effect" on these interests if it will increase or decrease:

(A) The income producing potential of the property by the lesser of:

1. \$1,000 per month; or
2. 5% per month if the effect is \$50 or more per month; or

(B) The fair market value of the property by the lesser of:

1. \$10,000; or
2. One half of one percent if the effect is \$1,000 or more.

(2 Cal. Adm. Code Section  
18702(b) (2) (A) and (B).)

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<sup>4/</sup> Hereinafter all statutory references are to the Government Code unless otherwise indicated.

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On the basis of the facts presented to us, the proposed ordinance will not affect the income producing potential of Mr. Smith's real property interests. The ordinance specifically states that "nothing [in particular subsections of the ordinance] shall effect a landlord's ability to determine, maintain or change the rent charged for the rental unit." In addition, Mr. Smith currently has no plans to evict any of his tenants and, thus, it is not foreseeable that the ordinance will cause him to incur any additional eviction expenses that will materially affect the income producing potential of a particular unit (2 Cal. Adm. Code Section 18702(b) (2) (A)). However, if, at the time the Council considers the ordinance, these facts have changed, Mr. Smith can contact our office for further advice.

It also does not appear that the ordinance will have a foreseeable material effect on the fair market value of Mr. Smith's real property interests. The ordinance does not restrict his ability to sell the property or alter its use. However, if based upon the facts available to Mr. Smith, he determines that the fair market value of his real property interests will be affected in the manner described in 2 Cal. Adm. Code Section 18702(b) (2) (B), he must disqualify himself.

If I can be of any further help to you, please feel free to contact me at 916/322-5901.

Very truly yours,

*Janis Shank McLean*  
Janis Shank McLean  
Counsel, Legal Division

JSM:km

# CITY OF SANTA BARBARA

OFFICE OF THE CITY ATTORNEY



CITY HALL  
DE LA GUERRA PLAZA  
P.O. DRAWER P-P  
SANTA BARBARA, CA 93102  
(805) 963-0611

January 9, 1984

Janis Shank McLean, Esq.  
Counsel, Legal Division  
Fair Political Practices  
Commission  
P.O. Box 307  
Sacramento, California 95804

Dear Ms. McLean:

I am directing this inquiry to you inasmuch as you have advised other city attorneys with respect to the applicability of the Political Reform Act of 1974 to certain situations involving rent control and related issues.

This inquiry is on behalf of Santa Barbara City Councilmember Sid Smith. Mr. Smith presently owns (with his wife) seven rental units within the City limits. They have a collective present market value of approximately \$400,000. The net rental income for the units in 1982 was \$20,000. The Smiths have owned the units for approximately 15-20 years.

The units are all approximately 75 years old, and are not subject to any existing encumbrances. Each is occupied by a tenant without a written lease (on a month-to-month tenancy). Mr. Smith has never been called upon to terminate the tenancy of any renter, each of whom have been in his apartment for between five and fifteen years. He is not holding either first or last month's deposit for any tenant, nor any cleaning deposit.

The Santa Barbara City Council has had under consideration for some months a "Just Cause Eviction" Ordinance. Consideration of the ordinance was deferred from June, 1983 to June, 1984 while certain information gathering was undertaken. It is expected that the Council will again consider this ordinance during 1984.

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Janis Shank McLean, Esq.  
January 9, 1984  
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The proposed ordinance would require any landlord seeking to evict a tenant to specify in writing the reason for that eviction. The ordinance would further restrict a landlord's discretion and would only permit evictions for specified reasons. A copy of the latest draft of the Just Cause Eviction Ordinance (as presented to the Council in June, 1983) is attached for your information.

On behalf of Councilmember Smith, I am requesting your advice concerning whether he may participate in the City Council decision on the proposed Just Cause Eviction Ordinance when the matter comes before the Council.

Thank you for your consideration of this request. Please let me know if you have any questions or wish to discuss the matter further with us.

Very truly yours,

  
STEVEN A. AMERIKANER  
City Attorney

SAA:ab

Enclosure

cc: Councilmember Sid Smith