

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
(916) 322-5662 322-5660 322-5901 322-6441

December 13, 1984

William R. Galstan
City Attorney
City of Antioch
P.O. Box 130
Antioch, CA 94509

Re: Your Request for Advice
Our File No. A-84-297

Dear Mr. Galstan:

Thank you for your request for advice on behalf of Antioch City Mayor Joel Keller concerning his obligations under the conflict of interest provisions of the Political Reform Act. The following advice is provided pursuant to Government Code Section 83114(b).^{1/}

QUESTION PRESENTED

May Mr. Keller participate in decisions concerning the sale of land by the City of Antioch to Contra Costa County and the rezoning of that land?

CONCLUSION

Mr. Keller may participate in decisions concerning the sale of land by the City of Antioch to Contra Costa County and the rezoning of that land.

FACTS

In your letter you presented the following facts:

Mr. Keller is employed as a Probation Officer for Contra Costa County. The City of Antioch has a piece of vacant surplus land which it proposes to sell to

^{1/} Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise noted.

Contra Costa County. The County plans to erect and maintain an office building, which would house social services, probation department, and other County functions. In order for this to happen, the City Council will have to approve a rezoning from single family residential to commercial, and the Council will have to approve an agreement for the sale of the property.

Mr. Keller is currently assigned to the Probation Department office in Concord. He occasionally has to visit the present Anitoch office, which would be relocated to the new building. Like any Probation Officer, Mr. Keller may in the future be transferred, which could include a transfer to the new County facility described above.

DISCUSSION

Section 87100 prohibits a public official from making, participating in the making, or in any way attempting 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 if it is reasonably foreseeable that the decision will have a material financial effect on:

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management....

Section 87103.

Mr. Keller receives a salary from Contra Costa County. However, for purposes of the Political Reform Act, salary received from a governmental entity is exempted from the definition of "income." (Section 82030.) Therefore, the salary paid to Mr. Keller as a Contra Costa County probation officer does not constitute "income" and the County is not a source of income to Mr. Keller.

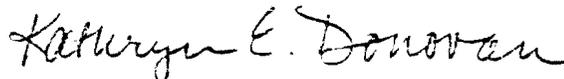
William R. Galstan
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Mr. Keller is also an employee of Contra Costa County. However, subdivision (d) of Section 87103 applies only if the public official is an employee of, or holds certain positions in, a business entity. Section 82005 specifies that "business entity" means an organization or enterprise operated for profit. Thus, Mr. Keller is not an employee of a "business entity" for purposes of the Political Reform Act.

Therefore, Mr. Keller's salary and employment as a probation officer for Contra Costa County do not provide a basis for his disqualification on decisions concerning the sale of land by the City of Antioch to the County and the rezoning of that land.

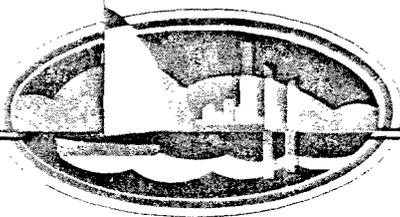
If you have any further questions, please feel free to contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh



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WILLIAM R. GALSTAN
City Attorney

November 29, 1984

Fair Political Practices Commission
P.O. Box 807
Sacramento CA 95804

Re: Request for Opinion

Dear Sir or Madam:

Antioch Mayor Joel Keller has asked me to request your opinion on the following issues.

Mr. Keller is employed as a Probation Officer for Contra Costa County. The City of Antioch has a piece of vacant surplus land which it proposes to sell to Contra Costa County. The County plans to erect and maintain an office building, which would house social services, probation department, and other County functions. In order for this to happen, the City Council will have to approve a rezoning from single family residential to commercial, and the Council will have to approve an agreement for the sale of the property.

Mr. Keller is currently assigned to the Probation Department office in Concord. He occasionally has to visit the present Antioch office, which would be relocated to the new building. Like any Probation Officer, Mr. Keller may in the future be transferred, which could include a transfer to the new County facility described above.

Please advise whether in your opinion Mr. Keller would have any conflict of interest in voting on either the rezoning or the agreement for transferring the property to the County. I would note that the City has no jurisdiction over design approval of the new structure. Thank you for your assistance.

Very truly yours,

WILLIAM R. GALSTAN
City Attorney

WRG/kw