

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

January 9, 1985

Don H. Vickers
Deputy County Counsel
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Your Request for Advice
Our File No. A-84-302

Dear Mr. Vickers:

Thank you for your letter requesting advice on behalf of Vista Del Mar Union School District Board of Trustees members Margaret Mang and Deborah Tautrim. This advice is based upon the facts provided in your letters and provided in telephone conversations with Margaret Mang.

FACTS PRESENTED

The Board of Trustees of the Vista Del Mar Union School District are currently considering various matters relating to the construction of an oil and gas processing facility adjacent to an existing school, and the relocation of that school.

The Board of Supervisors of Santa Barbara County has approved an application for the construction of an oil and gas processing facility adjacent to the Vista Del Mar School, which is located in the Vista Del Mar Union School District. Texaco is one of the oil companies which has a substantial financial interest in the processing facility.

The Board of Supervisors approved the construction of the processing facility on the condition that the oil companies financing the construction of the processing facility also finance the relocation of the Vista Del Mar School. The oil companies are required to prepare a school relocation plan, including location of a new school site, which is subject to approval of the Board of Trustees of the School District. The oil companies are required to obtain the new school site for the school district and construct new school facilities in accordance with the school relocation plan. The Board of Supervisors also required that the oil companies and the Board

of Trustees of the School District develop a reasonable and mutually agreeable construction plan for the processing facility and pipelines adjacent to the existing school site. The plan must include specific measures to minimize construction-related noise, air pollution, and visual disturbances to the school during school hours.

Two of the members of the Board of Trustees of the School District, Margaret Mang and Deborah Tautrim, have relationships with Texaco which may affect their ability to participate in decisions concerning the school relocation plan and the processing facility construction plan.

The husband of Mrs. Mang has a contract with Texaco under which he is paid in excess of \$500 per year to manage the El Capitan Ranch which is owned by Texaco. His duties as ranch manager have no direct relationship to the development or recovery of oil, or the development or operation of the processing facility. His duties relate to the operation of the ranch as a farming operation.

The husband of Deborah Tautrim is employed by the husband of Margaret Mang to work on the El Capital Ranch. He is not an employee of nor does he have any ongoing contractual relation with Texaco. He is paid by Mr. Mang in excess of \$500 per year. In addition, Mr. Tautrim has a one-half ownership interest in a piece of farming equipment which has been rented out to various persons in the area. It has been rented to Texaco on several occasions for use on the El Capital Ranch. His share of the rent paid by Texaco within the past twelve months exceeds \$500.

QUESTION

May Mrs. Mang and Mrs. Tautrim participate in decisions of the Board of Trustees of the Vista Del Mar Union School District concerning the school relocation plan and the processing facility construction plan?

CONCLUSION

Mrs. Mang and Mrs. Tautrim may not participate in basic decisions of the Board of Trustees of the Vista Del Mar Union School District concerning the school relocation plan and the processing facility construction plan.

DISCUSSION

Government Code Section 87100^{1/} prohibits a public official from making, participating in, 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 within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on, among other interests, any source of income aggregating \$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. Section 87103(c).

Texaco is a source of income in excess of \$250 to Mrs. Mang because she has a community property interest in the income her husband receives as manager of Texaco's El Capitan Ranch. Therefore, Mrs. Mang would be disqualified from participating in any governmental decision which would have a material financial effect on Texaco.

Texaco is also a source of income in excess of \$250 to Mrs. Tautrim because she has a community property interest in the income her husband receives from Texaco for rental of farming equipment. Therefore, Mrs. Tautrim would also be disqualified from participating in any governmental decision which would have a material financial effect on Texaco.

Mr. Tautrim's employment with Mr. Mang does not create a potentially disqualifying source of income for Mrs. Tautrim. In this case, there are no facts indicating that the decisions regarding the construction of the processing facility and the relocation of the school would have a material financial effect on Mr. Mang. Therefore, I shall discuss Mrs. Tautrim's possible disqualification only with respect to the income she and her husband receive from Texaco.

The Commission's regulations contain monetary guidelines for determining when the financial effect of a governmental decision is material. 2 Cal. Adm. Code Section 18702. When the governmental decision would affect a large business entity, such as Texaco, which is a source of income to the public official, the effect of the decision will be considered material if it is reasonably foreseeable that the decision will increase or

^{1/} All statutory references are to the Government Code unless otherwise specified.

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decrease the business entity's annualized gross revenues by \$100,000 or more. 2 Cal. Adm. Code Section 18702(b) (3) (C).^{2/}

It is probable that the Board of Trustees' initial decisions regarding the school relocation plan and the processing facility construction plan will have an effect in excess of \$100,000 on Texaco's annualized gross revenues. Thus, both Mrs. Mang and Mrs. Tautrim are disqualified from participating in those decisions.

Mrs. Mang has indicated that after the Board of Trustees of the School District has reached an agreement with Texaco and the other oil companies concerning the school relocation plan and the processing facility construction plan, the Board of Trustees will be monitoring compliance with those plans and making various specific decisions concerning the facilities and equipment to be provided at the new school. Thus, the Board of Trustees will probably be required to make a variety of decisions regarding these matters on a continuing basis, even though the Board of Trustees and the oil companies have concluded basic negotiations on the school relocation and processing facility construction plans. Some of the specific decisions which the Board of Trustees will be likely to face after an agreement is reached may be decisions from which Mrs. Mang and Mrs. Tautrim will be required to disqualify themselves. I cannot predict the types of decisions which will be before the Board of Trustees, but I will provide general guidance with respect to the factors Mrs. Mang and Mrs. Tautrim should consider with respect to their duties under the Political Reform Act.

With respect to each decision before the Board of Trustees, Mrs. Mang and Mrs. Tautrim should consider whether it is reasonably foreseeable that the decision will result in either a significant expenditure by, or a significant savings to, Texaco and the other oil companies. Another related factor for Mrs. Mang and Mrs. Tautrim to consider is whether the matter under consideration by the Board of Trustees is of such significance to the implementation of either the school

^{2/} The Commission is currently considering amendments to its regulations which would increase the monetary guidelines for determining whether the effect of a decision will be considered material. A copy of the proposed changes is enclosed. The Commission staff will conduct a public workshop on the proposed regulations on February 7, 1985, in Sacramento. Please contact me if you wish to receive further information regarding these proposed regulations.

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relocation plan or the processing facility construction plan that it is reasonably foreseeable that the decision of the Board of Trustees could result in termination of the agreement between the Board of Trustees and the oil companies or a significant modification of that agreement.

For example, Mrs. Mang has informed us that the Board of Trustees is currently considering two decisions related to the school relocation and processing facility construction plans. One decision concerns the selection of an attorney to represent the school district in negotiations on these matters, and the other decision concerns retaining a real estate agent to advise the Board of Trustees about potential sites for relocating the Vista Del Mar School.

The decisions regarding the attorney and the real estate agent are not likely to have a reasonably foreseeable material financial effect on Texaco and the other oil companies. The school district, rather than Texaco, will pay the expenses of the attorney and the real estate agent, so there will be no foreseeable financial impact on Texaco. Therefore, Mrs. Mang and Mrs. Tautrim may participate in the decisions concerning the selection and hiring of the attorney and the real estate agent.

In contrast, if the Board of Trustees considers a decision such as which potential site to select for relocation of the school, the decision may have a reasonably foreseeable material financial effect on Texaco. Whether Mrs. Mang and Mrs. Tautrim must refrain from participating in the decision would depend on facts such as whether there is a significant difference in the cost of acquiring one site as opposed to another, or whether the selection of a particular site is critical to the progress of the school relocation and processing facility construction plans.

I will be happy to provide further advice with respect to any future specific decisions pending before the Board of Trustees. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh



KENNETH L. NELSON
County Counsel
MARVIN LEVINE
Chief Assistant

COUNTY COUNSEL
SANTA BARBARA COUNTY

105 East Anapamu Street
Santa Barbara, CA 93101
Telephone: (805) 963-7189

November 29th, 1984

Fair Political Practices Commission
1100 K Street
Sacramento, CA 95804

Att'n: Legal Division

Dear Commissioners:

I am writing on behalf of Margaret Mang and Deborah Tautrim concerning whether or not they are disqualified from participating in matters coming before the Board of Trustees of the Vista Del Mar Union School District due to the fact that their husbands have received payments from Texaco. They are members of that five member Board.

Enclosed is a copy of an analysis of the question, including the factual background. If you need more information, please contact me. On page 5 of the analysis it is implied that the rental received by Mr. Tautrim within the latest 12 month period may soon be less than \$500. I have been advised that additional rental has been recently received from Texaco so that implication is not now warranted.

I would also appreciate some general guidance on actions which the Board may be faced with in the future. Approval of the processing facility in question is a decision for the County Board of Supervisors. The decisions of the School Board so far have dealt primarily with the establishment of positions to be taken at hearings before the County. If the County does approve the project, it will likely condition it upon the developers of the processing facility providing the District with another school located a safe distance from the processing facility. Given the fact that it is agreed by all concerned that the school and processing facility can not operate side by side, approval of the project by the County will in effect require the school to relocate at the expense of several oil companies. If the project is approved, the issues before the School Board will not be whether the processing facility should be located next to the existing school site, but

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rather will involve the location of the new school, and the specific facilities to be included on the school.

I would appreciate your comment upon the possibility of isolating particular decisions, because it will likely be the case that particular decisions will not have a material financial effect on Texaco, under the guidelines of 2 CDC 18702, especially since the costs of acquiring the site and developing a school will be shared among several oil companies, of which Texaco would be one.

Thank you for your assistance.

Very truly yours,

KENNETH L. NELSON, COUNTY COUNSEL

By

DON H. VICKERS
DEPUTY COUNTY COUNSEL

DHV:mjv
#4696C

cc: Margaret Mang
Deborah Tautrim
Shalee C. Kelly

State of California



Fair Political Practices Commission

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December 11, 1984

Don H. Vickers
Deputy County Counsel
105 E. Anapamu Street
Santa Barbara, CA 93101

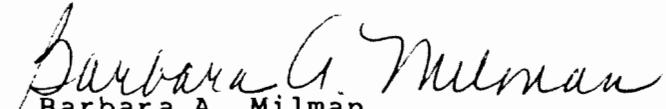
Re: A-84-302

Dear Mr. Vickers:

Your letter requesting advice under the Political Reform Act has been referred to Kathryn Donovan, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:plh