

# 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

June 11, 1985

Richard O. Vineyard  
City Councilman  
21815 Pioneer Blvd.  
Hawaiian Gardens, CA 90716

Re: Your Request for Advice  
Our File No. A-85-095

Dear Mr. Vineyard:

Thank you for your letter requesting advice regarding your duties under the conflict of interest provisions of the Political Reform Act.<sup>1/</sup>

### FACTS

You are a member of the City Council and Redevelopment Agency for the City of Hawaiian Gardens. The Redevelopment Agency is considering establishing a downtown center area. The City is approximately one square mile in size, and the entire City has been designated as the Redevelopment Area. The downtown center would be located in a one-block area consisting of 17 parcels which are currently zoned for commercial use. You own one of the 17 parcels which the Redevelopment Agency proposes to acquire.

The map we received from Douglas B. Dunlap, City Administrator of Hawaiian Gardens, shows that 13 of the 17 parcels which would comprise the downtown center area are virtually identical in size and shape. Your parcel is one of the 13 similarly sized parcels.

Health and Safety Code Section 33393 requires a Redevelopment Agency to acquire property through an eminent

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise specified.

Richard O. Vineyard  
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domain proceeding when a member of the Redevelopment Agency has an interest in the property. Therefore, in order to acquire your property, the Redevelopment Agency for the City of Hawaiian Gardens must initiate an eminent domain proceeding.

#### QUESTION

Is it a conflict of interest under the Political Reform Act for you to participate in decisions of the Redevelopment Agency concerning the acquisition of the other 16 parcels for the proposed downtown center?

#### CONCLUSION

It is not a conflict of interest under the Political Reform Act for you to participate in decisions of the Redevelopment Agency concerning the acquisition of the other 16 parcels for the proposed downtown center, so long as your participation would not have a reasonably foreseeable material effect on the value of your property.

#### ANALYSIS

Section 81000 prohibits a public official from making, participating in, or in any way attempting to use his official position to influence any governmental decision in which he has a financial interest. A public official has a financial interest in a decision if the decision would have a reasonably foreseeable material financial effect on, among other interests, an interest in real property of \$1,000 or more held by the public official. Section 87103(b).

You have not questioned your duty to disqualify yourself from participating in any decision of the Redevelopment Agency regarding the purchase of your parcel of property. In fact, the Community Redevelopment Law recognizes that acquisition of property owned by a member of the Redevelopment Agency would present the Redevelopment Agency member with a conflict of interest, and therefore requires that the property be acquired through an eminent domain proceeding. Health and Safety Code Section 33393. However, the question presented is whether you may participate in the Redevelopment Agency's decisions to acquire the other 16 parcels.

When property is taken by a public agency in an eminent domain proceeding, the owner of the property must be awarded compensation for the property, measured by the fair market value of the property. Code of Civil Procedure Section 1263.310. The value of the property may be shown only by the opinions of

Richard O. Vineyard  
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witnesses qualified to express such opinions, the owner of the property or the owner's spouse, or, if a business entity is the owner of the property, a person designated by the business entity who is knowledgeable as to the value of the property. Evidence Code Section 813.

Opinion testimony about the value of property which is the subject of an eminent domain proceeding may be based on sales of comparable property. Evidence Code Section 816. However, the sale of property to a public agency for a public use, when the property could have been taken in an eminent domain proceeding, is not a permissible basis for opinion testimony as to the value of property being acquired in an eminent domain proceeding. Evidence Code Section 822. Therefore, the purchase price of the other 16 parcels would not be a factor which would be considered when the fair market value of your parcel is determined in an eminent domain proceeding. Accordingly, we conclude that your participation in decisions to purchase the other 16 parcels would not affect the amount of compensation you receive for your property in an eminent domain proceeding.

It has been suggested that your participation in the decisions about the purchase of the other 16 parcels could put you at an advantage during the eminent domain proceeding to acquire your property. We understand that the negotiations for the other 16 parcels have been taking place in executive session. Therefore, a member of the general public would not be permitted to attend those negotiations. A person who attends these sessions would have access to information about the acquisition of the other 16 parcels which would not be available to a member of the general public. If it is reasonably foreseeable that having such information could have a material financial effect on the compensation you will ultimately receive for your property you should, of course, disqualify yourself and absent yourself from the executive sessions.

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



# City of HAWAIIAN GARDENS

JACK M. MYERS

LUPE A. CABRERA  
MAYOR

VENN W. FURGESON

ROSALIE M. SHER

RICHARD O. VINEYARD

April 16, 1985

Mr. John Keplinger  
Executive Director  
Fair Political Practices Commission  
1100 K Street  
Sacramento CA 95814

Dear Mr. Keplinger:

I am a member of the Hawaiian Gardens City Council and Redevelopment Agency. I am also the owner of property located in a Redevelopment Project area in which the Redevelopment Agency has recently authorized appraisals. I was excluded from the discussion and voting on the issue of appraisals and would seek your advice concerning my ability to execute the duties of my offices on planning, zoning and property acquisition.

Specifically, the Redevelopment Agency is considering the acquisition of 17 contiguous parcels of property located in a one block area of which my property is the most northerly parcel. In addition, the City currently has underway a General Plan and Zoning Up-date which will analyze the potential of this area for uses other than its existing commercial designation. My specific question concerns whether I can vote on and/or participate in discussions regarding the parcels of property which are located to the south of the parcel of which I am an owner? Can I vote or participate in the discussions, as an Agency Member, regarding the possibility of acquiring pieces of property located southerly of my parcel of property?

Your prompt advice and opinion on this matter would be greatly appreciated.

Very truly yours,

Richard O. Vineyard  
Councilman/Agency Member

ROV/bpm

# Memorandum

To : File No. A-85-095

Date : July 15, 1985

From : FAIR POLITICAL PRACTICES COMMISSION

Kathy Donovan *Ked*

Subject: Deadline Extension

On May 30, 1985, I spoke to Richard Vineyard about the due date of his advice letter. I explained that we had received additional information from the City Manager on April 29, and that ordinarily we provided advice within 21 working days after receipt of all material facts. I explained that I needed more time to answer his request. He agreed to an extension, but asked that I try to provide the advice as soon as possible.



City of

# HAWAIIAN GARDENS

A-85-095

LUPE A. CABRERA  
MAYOR

ROSALIE M. SHER  
MAYOR PRO TEM

JUL 1 8 20 PM '85  
JENNIFER W. FURGESON  
COUNCILMAN

JACK M. MYERS  
COUNCILMAN

RICHARD O. VINEYARD  
COUNCILMAN

June 26, 1985

Ms. Kathryn E. Donovan  
Counsel, Legal Division  
Fair Political Practices Commission  
State of California  
P.O. Box 807  
Sacramento, CA 95814

Dear Ms. Donovan:

I wish to express my appreciation for your prompt review of issues and opinion on the Hawaiian Gardens situation as outlined in my letter. Your thorough examination of the facts and a clear, concise opinion serves to clear the air on a number of matters.

Again, thank you and if I can ever be of service please do not hesitate to call.

Very truly yours,

Richard O. Vineyard  
City Councilman  
City of Hawaiian Gardens



City of

# HAWAIIAN GARDENS

A-85-095

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April 26, 1985

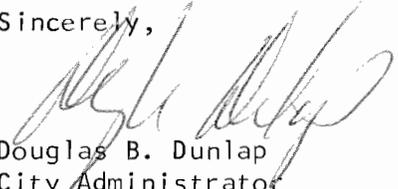
Ms Kathy Donovan  
FPPC  
1100 K Street  
Sacramento, CA 95814

Dear Ms. Donovan:

Pursuant to Councilman Richard O. Vineyard's inquiry dated April 16, 1985, enclosed is a vicinity map indicating the proposed property acquisition.

If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

  
Douglas B. Dunlap  
City Administrator

Enclosure