



# California Fair Political Practices Commission

April 7, 1986

Byron D. Athan  
City Attorney  
City of San Ramon  
2222 Camino Ramon  
San Ramon, CA 94583

Re: Your Request for Advice  
Our File No. A-86-067

Dear Mr. Athan:

Thank you for your letter requesting advice on behalf of San Ramon City Councilmember Diane Schinnerer, regarding her duties under the conflict of interest provisions of the Political Reform Act ("Act").<sup>1/</sup>

## FACTS

In your letter you provided the following facts:

Councilmember Schinnerer and her husband are owners of a one-seventh undivided interest in common in real property located adjacent to a proposed redevelopment project area known as the Alcosta Area, and approximately five miles away from another proposed redevelopment project area known as the Crow Canyon Area. The real property in which Councilmember Schinnerer owns an interest is a 1 1/2 acre parcel improved

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

with a single story dental building occupied by the tenants in common (the owners of the property).<sup>2/</sup>

The City Council of San Ramon sits as the legislative body for the San Ramon Redevelopment Agency. Both the Alcosta Area and the Crow Canyon Area are in the early stages of planning and review. The Alcosta Area, which consists of approximately 45 acres, is being considered for retail, office, manufacturing, recreational and residential uses. The Crow Canyon Area, consisting of approximately 325 acres, is being considered for 730,000 square feet of retail space, 1,000,000 square feet of office space, 400,000 square feet of institutional uses, 650,000 square feet of hotel space, 350,000 square feet of medical office space, and 500 dwelling units.

#### QUESTION

May Councilmember Schinnerer participate in decisions concerning the proposed Alcosta Area and the proposed Crow Canyon Area?

#### CONCLUSION

Councilmember Schinnerer may participate in decisions concerning the proposed Crow Canyon Area. She may participate in decisions concerning the proposed Alcosta Area unless it is reasonably foreseeable that a particular decision would have a material effect on the fair market value of the real property in which she has an ownership interest, as discussed in the following analysis.

#### ANALYSIS

In your letter, you provided only general information about the redevelopment projects currently under consideration in San Ramon; you did not provide any information about the specific facts of a particular decision pending before the Redevelopment Agency. Accordingly, I can provide only the following general advice concerning Councilmember Schinnerer's ability to participate in decisions regarding the Alcosta Area and the Crow Canyon Area. If, in the future, you wish to request advice concerning a specific decision, please contact us.

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<sup>2/</sup>In your letter, you did not discuss whether Councilmember Schinnerer has an investment in, or receives income from, a business entity doing business in this building, or whether she receives any rental income from the real property. If Councilmember Schinnerer has any of these economic interests, she should also consider whether there will be a reasonably foreseeable material effect on those interests as a result of decisions concerning the Alcosta Area and the Crow Canyon Area.

Section 87100 prohibits any public official from making, participating in, or attempting to influence any governmental decision in which she knows or has reason to know she has a financial interest. A public official has a financial interest in a decision if the decision would have a reasonably foreseeable effect, distinguishable from the effect on the public generally, on, among other things, any real property in which the public official has a direct or indirect interest worth \$1,000 or more. Section 87103(b).

The Commission has adopted regulations which specify when the effect of a governmental decision will be considered material. 2 Cal. Adm. Code Sections 18702, 18702.1 and 18702.2 (copies enclosed).<sup>3/</sup>

Pursuant to regulation 2 Cal. Adm. Code Sections 18702(b)(2), a governmental decision which affects a public official's interest in real property will be considered material if the reasonably foreseeable effect of the decision would be to increase or decrease:

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

1. One thousand dollars (\$1,000) per month; or
2. Five percent per month if the effect is fifty dollars (\$50) or more per month; or

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

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

In addition, pursuant to regulation 2 Cal. Adm. Code Section 18702.1(a)(3), a public official must disqualify herself from participating in a governmental decision if:

The decision concerns the zoning or rezoning, annexation or deannexation, sale, purchase or

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<sup>3/</sup>The Commission has also noticed two new regulations for adoption which, if adopted, would provide additional guidance for determining whether land use and redevelopment decisions will have a material financial effect on a public official's real property interests. See proposed 2 Cal. Adm. Code Sections 18702.4 and 18702.6 (copies enclosed).

lease, actual or permitted use, or inclusion in or exclusion from any city, county, district or other local government subdivision of, or taxes or fees assessed or imposed on, or any similar decision as to real property in which the official has a direct or indirect interest (other than a leasehold interest) of \$1,000 or more.

Applying these guidelines to Councilmember Schinnerer's situation, Councilmember Schinnerer must disqualify herself from participating in any redevelopment decision which could increase or decrease either the income-producing potential, or the fair market value, of the real property by the amounts specified in 2 Cal. Adm. Code Section 18702(b)(2), or if the real property in which she holds an interest is the subject of the decision, as specified in 2 Cal. Adm. Code Section 18702.1(a)(3).

With regard to decisions about the Crow Canyon Area, we conclude it is unlikely that those decisions would have a material effect on Councilmember Schinnerer's real property interest. This conclusion is based on the fact that the Crow Canyon Area is located five miles away from Councilmember Schinnerer's real property.

We are unable to reach a general conclusion about Councilmember Schinnerer's ability to participate in decisions about the Alcosta Area. Due to the proximity of the Alcosta Area to the real property in which Councilmember Schinnerer has an ownership interest, it is probable that a specific proposal which significantly affects the value of real property in the Alcosta Area, or changes the permitted use of that property, would also significantly affect the value or the use of Councilmember Schinnerer's real property. This would be most likely with respect to decisions affecting property in the immediate vicinity of Councilmember Schinnerer's real property. Accordingly, Councilmember Schinnerer must examine each decision concerning the Alcosta Area and disqualify herself from any decision which could significantly affect the value and use of her real property in a manner distinguishable from the effect on the public generally.

Please contact me at (916) 322-5901 if you have any questions concerning this letter or if you wish to discuss a specific decision pending before the San Ramon Redevelopment Agency.

Very truly yours,

Kathryn E. Donovan  
Staff Attorney  
Legal Division

KED:sm  
Enclosures

# City of San Ramon

2222 Camino Ramon  
San Ramon, California 94583  
(415) 838-2424

MAY 16 5 12 AM '85

May 13, 1985

State of California  
Fair Political Practices Commission  
Post Office Box 807  
Sacramento, CA 95804

Re: Request for Opinion

Dear Commissioners:

Request an opinion as to whether a City Councilperson is disqualified from participating in governmental decisions regarding a proposed redevelopment project under the following facts:

## F\_A\_C\_T\_S

1. The City is considering a 278 acre area for a potential redevelopment project.
2. The project is only in the early stages of planning and review; however one of the alternatives being considered for uses to be permitted in the project area is 730,000 square feet of retail, 1,000,000 square feet of office, 400,000 square feet of institutional uses, 650,000 square feet of hotel space, 350,000 square feet of medical office space, and 500 dwelling units. No doubt under this and similar alternatives, one or more financial institutions will be located in the project area.
3. The City Councilperson is one of thirteen directors of a full service bank located across a 110' street from the limits of the studied redevelopment project area. This is a single branch bank and this is its only location.
4. The City Councilperson does not have any financial interest in the bank though he does contemplate investing an amount between \$10,000 and \$100,000 in the holding company which owns 100 per cent of the bank. The holding company also owns and operates two other banks; the Bank of Pleasanton and the Commercial Bank of Fremont.
5. The bank does not own the property upon which it is located but leases approximately 4205 square feet. The lease appears to be an arm's length transaction and is

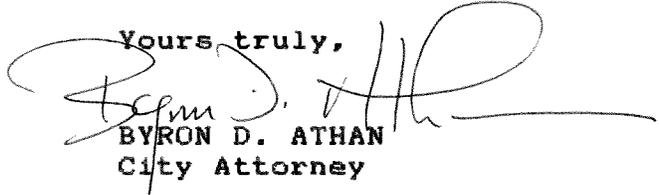
Page 2  
Letter - Fair Political  
Practices Commission  
May 13, 1985

for a period of ten years with two five year extensions. The rental is within the range of current rents for the area and the lease provides for annual CPI adjustments in addition to a second year increase in the basic rental.

6. At the present time there are five full service banks and two savings and loan associations within a half mile of the proposed project area. In addition four full service banks (one in the project area) are also planned for this same one-half mile radius. There are also two other savings and loan associations operating in the City.

Thank you for your cooperation in this matter.

Yours truly,



BYRON D. ATHAN  
City Attorney

# City of San Ramon

2222 Camino Ramon  
San Ramon, California 94583  
(415) 866-1400

FEB 20 8 04 AM '86

February 18, 1986

State of California  
Fair Political Practices Commission  
Post Office Box 807  
Sacramento, CA 95804

Re: Request for Informal Advice Letter

Dear Commissioners:

Request an Advice Letter as to whether a City Councilperson is disqualified from participating in governmental decisions regarding a proposed redevelopment project under the following factual situation:

## F A C T S

1. The City Council of the City of San Ramon is the legislative body for the redevelopment agency.
2. The City is considering two project areas for potential redevelopment.
  - A. Alcosta Area consisting of approximately 45 acres.
  - B. Crow Canyon Area consisting of approximately 325 acres.
3. The project is only in the early stages of planning and review; however one of the alternatives being considered for the Alcosta Area are retail, office, manufacturing, recreational and residential uses. For the Crow Canyon Area, an alternative being considered is for 730,000 square feet of retail, 1,000,000 square feet of office, 400,000 square feet of institutional uses, 650,000 square feet of hotel space, 350,000 square feet of medical office space, and 500 dwelling units.
4. The City Councilperson and her husband are the community property owners of a one-seventh undivided interest in

Fair Political Practices Commission  
February 14, 1986  
Page 2

common on an acre and a half parcel adjoining and abutting on the potential Alcosta Area project. The improvement on the parcel consists of a single story dental building occupied by the tenants in common.

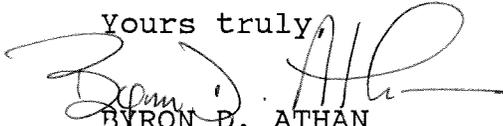
The Councilperson's name and address is:

Councilperson Diane Schinnerer  
9419 Cherry Hill Lane  
San Ramon, CA 94583

I have been authorized by Councilperson Schinnerer to seek this informal advice on her behalf. It would be appreciated if the advice was directed toward the question of disqualification as to matters pertaining to Area A, Area B, or both areas.

Thank you for your cooperation in this matter.

Yours truly,



BYRON D. ATHAN  
City Attorney

# 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

May 21, 1985

Byron D. Athan  
City Attorney  
City of San Ramon  
2222 Camino Ramon  
San Ramon, CA 94583

Re: Your Request for Advice,  
Our Advice No. A-85-116

Dear Mr. Athan:

We are in receipt of your May 13, 1985 letter requesting an opinion concerning a possible conflict of interest within your city (letter enclosed).

The Fair Political Practices Commission may consider a request for an opinion when the questions raised are not covered by Commission regulations or raise substantial question of interpretation. The questions raised in your letter can be answered through the request of formal written advice.

Regulation 2 Cal. Adm. Code Section 18329, as recently revised by the Commission (copy enclosed), sets forth the manner for requesting formal written advice and the requirements that must be met.

Before your letter can be assigned to a member of our staff for response, the information listed below is needed to clarify the facts presented.

- 1) The name and address of the city councilmember whose duties are in question.
- 2) Your statement that you have been authorized by the councilmember to obtain this advice on his or her behalf.
- 3) The name of the full-service bank, the types of clients or customers it serves and a description of the services it provides.

Mr. Byron D. Athan  
May 21, 1985  
Page 2

When this information has been received, your initial letter and the additional facts provided will be assigned to a member of our staff for review and response. Once all factual information pertinent to this issue has been obtained, the Commission will render a response within 21 working days.

If you are not seeking formal advice on behalf of any person, you can request the Commission to provide informal assistance. Such assistance may be limited to an explanation in general terms of the requirements of the Political Reform Act. (See 2 Cal. Adm. Code Section 18329(c).)

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

Sincerely,

Jeanette Turvill  
Legal Assistant

JET:nwm  
Enclosures

# City of San Ramon

2222 Camino Ramon  
San Ramon, California 94583  
(415) 866-1400

MAR 7 8 26 AM '86

March 4, 1986

State of California  
Fair Political Practices Commission  
Post Office Box 807  
Sacramento, CA 95804

ATTN: Ms. Jeanette E. Turvill

Re: Your file No. A-86-067

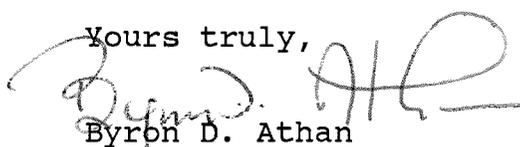
Dear Ms. Turvill:

I have enclosed maps showing the two proposed project areas referred to in my letter of February 14, 1986. The Schinnerer property is indicated in red on Exhibit B.

The proposed Crow Canyon Survey Area (Exhibit A) is 5 miles north of the proposed Alcosta Survey Area (Exhibit B).

Thank you for your cooperation in this matter.

Yours truly,

  
Byron D. Athan  
City Attorney

Encl: a/s



# California Fair Political Practices Commission

February 27, 1986

Byron D. Athan, City Attorney  
City of San Ramon  
2222 Camino Ramon  
San Ramon, CA 94583

Re: Your Request for Advice  
Our File No. A-86-067

Dear Mr. Athan:

We have received your February 18, 1986, letter requesting written advice concerning a conflict of interest.

We will be happy to provide written advice; however, in order to respond to your letter, we will need the additional information listed below. Regulation 2 Cal. Adm. Code Section 18329 (copy enclosed) requires that this information be provided before we can act on your request for advice.

A map showing the proposed project areas, the distance between the two areas and the proximity of the Schinnerer property.

Please provide this information by March 27, 1986, so that we can respond to your letter in a timely manner. If you cannot provide the information by that date, please contact this office. If we do not hear from you by March 27, 1986, we will have to assume that you have withdrawn your request for advice.

When we have received the additional information, your request for advice will be assigned to a member of our staff for review and response. Written advice is generally provided within 21 working days after all pertinent information has been received.

Byron D. Athan, City Attorney  
February 27, 1986  
Page 2

Please contact this office at (916) 322-5901 if you have any questions regarding this letter.

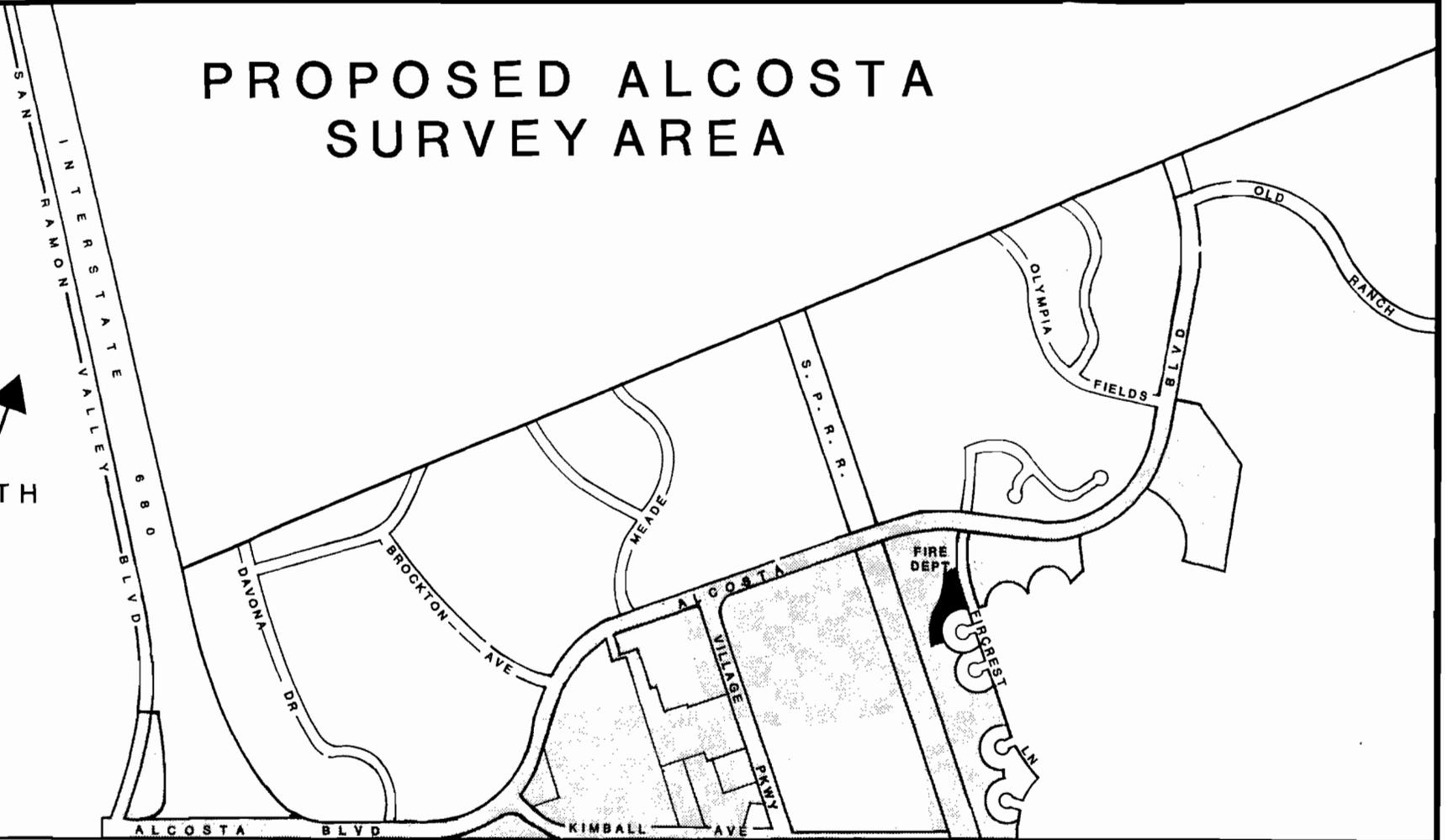
Sincerely,



Jeanette E. Turvill  
Legal Assistant  
Legal Division

JET:plh  
Enclosure  
cc: Diane Schinnerer

# PROPOSED ALCOSTA SURVEY AREA

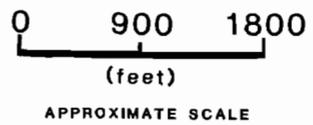
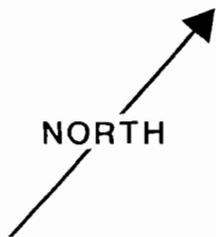


SAN RAMON PLANNING DEPT.  
2/20/86

selected roads illustrated

EXHIBIT "B"

# PROPOSED CROW CANYON SURVEY AREA EXHIBIT "A"



SAN RAMON PLANNING DEPARTMENT  
03/03/86