



California Fair Political Practices Commission

April 10, 1986

John A. Frederick
City Attorney
City of Manteca
146 N. Grant
Manteca, CA 95336

Re: Your Request for Advice
Our File No. I-86-089

Dear Mr. Frederick:

We have received your letter dated March 12, 1986, requesting our "opinion" concerning a possible conflict within your city. We believe your request will be better answered by informal assistance. (See enclosed copy of Commission regulation, 2 Cal. Adm. Code Section 18239.)

FACTS

One of your councilmembers owns a commercial building. The councilmember is contemplating leasing office space to the Chamber of Commerce (Chamber) and has asked if disqualification would be required under the two scenerios described below:

- (1) The Chamber appears before the City Council seeking financial assistance from the City.
- (2) A business man, who is a member of the Chamber, appears before the Council regarding zoning and planning applications which will have an impact on his business.

CONCLUSION

Should the Chamber become a tenant in the building and therefore a source of income of \$250 or more to the councilmember, the councilmember would be disqualified from making or participating in decisions of the City Council when the Chamber appears before it. (2 Cal. Adm. Code Section 18702.1.)

However, the councilmember would not be disqualified from participating in decisions affecting the individual members of the Chamber.

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You should note that this advice is limited to the application and interpretation of the Political Reform Act. Government Code Section 1090, which concerns contracts made by public agencies, may also apply to your situation. We cannot advise you concerning Government Code Section 1090, but you should consider contacting the Attorney General's Office for advice regarding that statute.

ANALYSIS

The Political Reform Act (the "Act")^{1/} provides that no public official at any level of state or local government shall make, participate in 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. (Section 87100.)

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 its effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

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

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, 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.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts 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.

* * *

Section 87103.

Should the Chamber become a tenant in the councilmember's office building, it would become a source of income to the councilmember and, hence, disqualification could result under appropriate circumstances.

The businessman, who is a member of the Chamber, is not a source of income to the councilmember through his affiliation with the Chamber. The member pays fees to the chamber which entitles him to participate in programs or committees to promote the City to businesses and industries. The Chamber, as a nonprofit organization, has no shareholders. A financial relationship does not exist between the members of the Chamber and the Chamber itself. Consequently, the councilmember does not acquire an economic interest in members of the Chamber because the Chamber is a tenant in his building.

I hope this answers your questions. Should you have additional questions, please feel free to contact me at (916) 322-5901.

Sincerely,



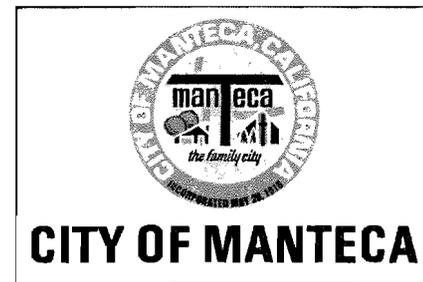
Jeanette E. Turvill
Legal Assistant
Legal Division

JET:plh

CITY ATTORNEY

146 N. Grant
Manteca, California 95336
209-823-1112

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March 12, 1986

State of California
FPPC
P.O. Box 807
Sacramento, CA 95804

RE: Opinion regarding potential conflict for municipal councilmen.

Dear Sir/Madam:

One of the councilmen for our city has requested we seek your opinion regarding a potential conflict.

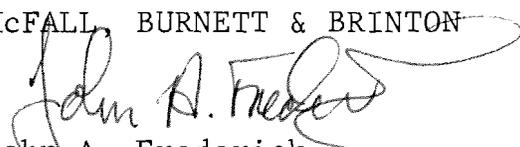
The councilman owns a commercial office building. He is considering renting space therein to the local Chamber of Commerce. If he does so, will he be required to abstain from participation in the following scenerios:

1. The Chamber of Commerce appears before the council seeking financial assistance from the city.
2. A businessman who is a member of the Chamber appears before the council regarding zoning and planning applications which will have a significant impact on his business.

Your prompt consideration and response is most appreciated.

Yours truly,

McFALL, BURNETT & BRINTON


John A. Frederick
Attorney at Law

JAF/kh



California Fair Political Practices Commission

March 14, 1986

John A. Frederick
City Attorney
146 N. Grant
Manteca, CA 95336

Re: I-86-089

Dear Mr. Frederick:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me 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,

A handwritten signature in cursive script that reads "Jeanette E. Turvill".

Jeanette E. Turvill
Legal Assistant
Legal Division

JET:plh