



# California Fair Political Practices Commission

May 12, 1986

Linda Goff Evans  
P.O. Box 4238  
Arcata, CA 95521

Re: Your Request for Informal  
Assistance  
Our File No. I-86-117

Dear Ms. Evans:

Thank you for your letter requesting general guidance concerning your duties under the "revolving door" provisions of the Political Reform Act (the Act).<sup>1/</sup> Because your request is for general guidance and does not concern a specific fact situation, we will treat it as a request for Informal Assistance under regulation 2 Cal. Adm. Code Section 18329 (copy enclosed).

## FACTS

You have been employed by the California Coastal Commission since January 1979. In your letter you stated that at the end of April you would leave your position as a Coastal Program Analyst II and accept a temporary position with the Humboldt County Planning Department as a Planner II. As an employee of the Coastal Commission, your work involved certain aspects of projects located in Humboldt County.

In your letter, you provided the following information about your duties as a Coastal Commission employee and your new position in the Humboldt County Planning Department:

From September 1985 to the present, I have been working half-time under the supervision of Pat Stebbins, Coastal Access Manager, doing research,

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

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writing, and graphics for the Resources Guide, a book that the Coastal Commission is producing. Between January 1979 and August 1985, I worked full time under the supervision of either B. Noah Tilghman, Bruce Fodge, or Rick Rayburn, performing permit and planning functions in the North Coast District of the Calif. Coastal Commission. My duties as a Coastal Program Analyst in the North Coast District included processing permits, enforcement, violations, reviewing and commenting on environmental documents, monitoring local government issued coastal development permits of post-certified Land Use Plans, and LUP's and amendments in portions of Humboldt and Mendocino Counties. Local Coastal Programs in Humboldt County that were assigned to me included the Eel River Area Plan and the Southcoast Area Plan, LUP amendments at specific sites county-wide, and filling in as needed on LUP's, permits and Post Cert monitoring in other parts of Humboldt County outside of Southcoast and Eel River areas. In addition to the planning and permits, I also worked with Humboldt County, among other agencies, as district access coordinator. This involved planning locations and methods for improving public access, trail and support facilities.

My position with the Humboldt County Planning Department is anticipated to be working principally on current planning projects -- processing permits, variances, lot line adjustments, subdivisions, residential and commercial development projects -- and any other special assignments as needed. Although I have been informed that I will not be assigned projects from the Southcoast Area (specifically from Shelter Cove) since that area is assigned to another county planner, it is quite possible that I would be working on coastal development permits or other projects in other coastal areas of Humboldt County.

#### QUESTION

You have asked whether, as a former Coastal Commission employee, there will be any restrictions on your participation in planning matters as an employee of the County of Humboldt.

#### ANALYSIS

The following is a general analysis concerning the restrictions of Sections 87400, et seq., the so-called "revolving door" provisions of the Act. Because you have

provided only general information as to your responsibilities as an employee of the Coastal Commission and your anticipated responsibilities as an employee of Humboldt County, we can give you only this general guidance at this time. However, if, in the future, you have questions regarding a specific situation, you should contact this office for specific advice.

Sections 87401 and 87402 provide:

87401. No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

87402. No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

Your employment with the Coastal Commission makes you a state administrative official who is subject to the restrictions of Sections 87401 and 87402. Section 87400(b). Therefore, you are prohibited from representing, aiding, advising, counseling, consulting, or assisting in representing any person,<sup>2/</sup> for compensation, in connection with any

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<sup>2/</sup> "Person" is broadly defined under the Act to include any organization or group of persons acting in concert. Section 82047. Accordingly, Sections 87401 and 87402 restrict your ability to represent either individuals or the County in certain proceedings.

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proceeding involving specific parties in which you participated as a Coastal Commission employee.

You should note that, for purposes of Sections 87401 and 87402, you "participated" in a proceeding if you took part in the proceeding "personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information" as an employee of the Coastal Commission. This would include any proceeding in which you had only a supervisory role.

Under the Coastal Act, there are three distinct phases which are subject to the jurisdiction of the Coastal Commission: the land use plan, the approval of zoning pursuant to the provisions of the general plan, and specific coastal development permit approval. For purposes of Sections 87401 and 87402, each of these phases is a different proceeding. Therefore, your participation, as a Coastal Commission employee, in the County's land use plan or amendments to the land use plan would not prevent you from participating, as a County employee, in the review and approval of local coastal permit applications which implement the County's land use plan. The provisions of Sections 87401 and 87402 prohibit your participation in the same proceeding in which you participated as a state employee, but do not restrict your ability to participate in new proceedings.

You should note that Section 87400(c) provides that a "proceeding" is "any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency" (emphasis added). Therefore, the restrictions of Sections 87401 and 87402 apply only to matters involving a specific party or parties, rather than matters concerning general rules of applicability.

The specific coastal permit application is the type of matter which most clearly is a "proceeding" for purposes of Sections 87401 and 87402, in that it affects a specific party or parties. Therefore, you may not represent or assist the County of Mendocino, or any other person, in any aspect of a coastal permit application proceeding in which you participated as a Coastal Commission employee. However, once the final decision on a coastal permit application proceeding in which you did participate has been made, you would not be prohibited from participating in new proceedings related to that same coastal permit application. I have enclosed a copy of the

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Galanter letter (No. A-82-079), which discusses specific fact situations concerning what is, or is not, a new proceeding.

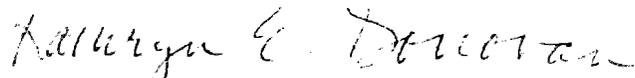
As a Coastal Commission employee, you also participated in matters involving land use plans and land use plan amendments at specific sites in Humboldt County. Whether these matters are considered "proceedings" for purposes of Sections 87401 and 87402 depends on whether they affected only a specific party or parties, rather than a significant segment of the properties within the jurisdiction of the land use plan. If your responsibilities as a County employee involve assisting the County in amendments to its land use plan, and your responsibilities as a Coastal Commission employee included participation in the review of those same amendments, you should ask yourself if the amendments affect only a specific party or parties. If the answer to that question is yes, then you must refrain from representing or assisting the County on that matter. However, if the answer is no, then you may represent or assist the County on the amendments.

In certain instances, the County may be the specific party affected in a proceeding, for example if the County initiated the proceeding on its own initiative rather than at the request of another person. In that instance, if you participated in the proceeding as a Coastal Commission employee, you should refrain from participating in the same proceeding as a County employee.

To summarize, you may not represent or assist the County or any other person in a proceeding affecting specific parties in which you participated as an employee of the Coastal Commission. You may represent the County or other persons in new proceedings, however.

If you have any questions regarding this letter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh  
Enclosure

## CALIFORNIA COASTAL COMMISSION

631 HOWARD STREET, 4TH FLOOR  
SAN FRANCISCO, CA 94105  
(415) 543-8555



APR 11 2 09 PM '86 April 10, 1986

Alice Hughes  
Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

RE: Disclosure statement

Dear Ms. Hughes:

I have been employed continuously by the California Coastal Commission since January 1979, and permanently since October 1979. At the end of this month I will be leaving my position as a Coastal Program Analyst II and will be accepting a temporary position with the Humboldt County Planning Department as a Planner II. I have been advised by the Coastal Commission's former Chief Legal Counsel, Roy Gorman, to provide you with a disclosure statement concerning my duties as a Coastal Program Analyst II and my anticipated duties as a Planner II for the Humboldt County Planning Department.

From September 1985 to the present, I have been working half-time under the supervision of Pat Stebbins, Coastal Access Manager, doing research, writing, and graphics for the Resources Guide, a book that the Coastal Commission is producing. Between January 1979 and August 1985, I worked full time under the supervision of either B. Noah Tilghman, Bruce Fodge, or Rick Rayburn, performing permit and planning functions in the North Coast District of the Calif. Coastal Commission. My duties as a Coastal Program Analyst in the North Coast District included processing permits, enforcement, violations, reviewing and commenting on environmental documents, monitoring local government issued coastal development permits of post-certified Land Use Plans, and LUP's and amendments in portions of Humboldt and Mendocino Counties. Local Coastal Programs in Humboldt County that were assigned to me included the Eel River Area Plan and the Southcoast Area Plan, LUP amendments at specific sites county-wide, and filling in as needed on LUP's, permits and Post Cert monitoring in other parts of Humboldt County outside of Southcoast and Eel River areas. In addition to the planning and permits, I also worked with Humboldt County, among other agencies, as district access coordinator. This involved planning locations and methods for improving public access, trail and support facilities.

My position with the Humboldt County Planning Department is anticipated to be working principally on current planning projects -- processing permits, variances, lot line adjustments,

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subdivisions, residential and commercial development projects -- and any other special assignments as needed. Although I have been informed that I will not be assigned projects from the Southcoast Area (specifically from Shelter Cove) since that area is assigned to another county planner, it is quite possible that I would be working on coastal development permits or other projects in other coastal areas of Humboldt County.

Please let me know if you foresee any conflict of interests with regard to my change of employment, specifically as it pertains to the interpretation and application of government Code Sections 87400 - 87405. If you need further clarification concerning my job duties as a Coastal Program Analyst with the California Coastal Commission, please contact the supervisors that I named above. If additional information is needed from Humboldt County Planning Department concerning my new job duties, please contact Martin McClelland, Planning Director at 3015 H Street, Eureka, CA 95501; phone: (707) 445-7541.

I will decline to work on coastal development projects that I had direct involvement in as a Coastal Commission employee until I get a specific ruling or letter of advice from the Fair Political Practices Commission. You can direct your correspondence to me at the following address: Linda Goff Evans, P.O. Box 4238, Arcata, CA 95521; phone: (707) 839-4106.

Thank you for your time and attention to this matter.

Sincerely,

  
Linda Goff Evans

cc: Marty McClelland, Humboldt County Planning Department  
Patty Dunn  
Larry Henderson  
Mary Hudson, Acting Chief Legal Counsel, CCC  
Robert Lagle, Administrator Energy and Coastal Resources  
Pat Stebbins, Coastal Access Program Manager  
B. Noah Tilghman, North Coast District Manager



# California Fair Political Practices Commission

April 17, 1986

Linda Goff Evans  
California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, CA 94105

Re: 86-117

Dear Ms. Evans:

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, appearing to read "Kathryn E. Donovan".

Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh