



# California Fair Political Practices Commission

July 30, 1986

Judith Robbins  
Assistant Town Attorney  
Town of Moraga  
Williams, Capole & Robbins  
P.O. Box 698  
Benicia, CA 94510

Re: Request for Advice  
Our File No. A-86-135

Dear Ms. Robbins:

This letter is in response to your letter of June 25, 1986. Moraga Town Attorney Charles Williams initially requested advice from us on behalf of former Moraga Planning Commissioner David Dolter, in a letter dated April 23. We responded by letter on May 14, requesting additional material facts to help us understand the situation. You replied on June 25, enclosing a letter with more facts from Mr. Dolter. We in turn responded by letter on July 2, explaining that our request for additional material facts was misinterpreted. We sought further clarification. A telephone call with you ensued, and you granted us permission to contact Mr. Dolter by telephone.

We called Mr. Dolter and learned that since the time the advice request was initiated, he has left the Commission. Consequently, he is no longer a public official, and no longer has rights or duties under the Political Reform Act. The Commission's policy, as articulated in Regulation 2 Cal. Adm. Code Section 18329(b)(4)(F) (copy enclosed), is that an advice request be declined if it does not appear to present an actual question under the Act.

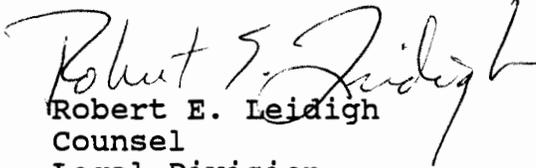
Further, the potential conflict of interest facing Mr. Dolter never arose. He left the Planning Commission before a vote on the Northwood Development in question came before the Commission. Mr. Dolter also informed us that a vote on the Northwood Development is not likely to occur soon, as a recently passed town initiative that would halt the development is currently being litigated.

Judith Robbins  
July 30, 1986  
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We therefore decline to give you advice on behalf of Mr. Dolter. Enclosed, however, is a pamphlet outlining the law of conflicts of interest regarding public officials.

Should you have any further questions, I may be reached at (916) 322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:MS:plh  
Enclosure

LAW OFFICES  
WILLIAMS, CAPLOE & ROBBINS  
1060 GRANT STREET, SUITE 201  
P. O. BOX 698  
BENICIA, CALIFORNIA 94510

CHARLES J. WILLIAMS  
A PROFESSIONAL CORPORATION  
FRED CAPLOE  
A PROFESSIONAL CORPORATION  
JUDITH A. ROBBINS

JUN 30 10 45 AM '86

TELEPHONE:  
(415) 228-3840  
(707) 748-1011

June 25, 1986

Robert E. Leidigh  
Counsel, Legal Division  
California Fair Political  
Practices Commission  
428 "J" Street, Suite 800  
P. O. Box 807  
Sacramento, CA 95804-0807

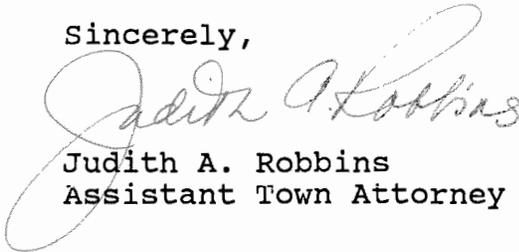
Re: Request for Advice  
Your File No.: A-86-135

Dear Mr. Leigigh:

By letter dated April 23, 1986, Town Attorney Charles Williams sent a Request for Advice regarding the duties of a member of the Moraga Planning Commission. On May 14, 1986 you wrote requesting additional material facts. The Planning Commissioner on whose behalf the advice is requested has supplied the additional information in the attached June 18, 1986 letter.

Please let us know if we can be of further assistance.

Sincerely,



Judith A. Robbins  
Assistant Town Attorney

JR:ss  
Enclosure

JUN 23 1986

H. R.  
REMINGTON  
PROPERTIES

CONFIDENTIAL

June 18, 1986

WILLIAMS, CAPLOE & ROBBINS  
ATTN: Judith A Robbins  
1060 Grant St., Suite 201  
P.O. Box 698  
Benicia, CA 94510

RE: Supplemental Information:  
My Inquiry to FPPC

Dear Judy:

Even though I am voluntarily going off the Commission on June 30th, I am providing the information requested to provide guidance for others in local government similarly situated. Responses are numbered per the FPPC 5/14/86 request for supplemental information.

- (1) I own 25% of H.R Remington Properties, Inc. with an estimated value of \$700,000.
- (2) Remington (H.R. that is) has three (3) projects with Oakwood. Two are owned by the joint venture and one is owned by a limited partnership consisting of the joint venture as the managing general partner. In all cases our "deal" with Oakwood is essentially 49-51.
- (3) The FPPC needs to clearly understand that Oakwood is not acting as a lender. Rather, they are an investor. They are repaid, if you will, from loan proceeds obtained by us from actual lenders. Their investment is not contingent upon obtaining governmental entitlements. Oakwood has provided approximately \$16.45 million to date of which approximately \$10.75 million has been returned.
- (4) It would appear that this question is addressed primarily to you. However one scenario might be that if Planning Commission action resulted in the project

1131 Harbor Bay Parkway  
Suite 201  
Alameda, California 94501  
(415) 769-5252

Judith A. Robbins  
June 18, 1986  
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not going forward in a timely manner, the lender may foreclose on the property (assuming, of course, that the lender's note was secured by a deed of trust, which is usually the case) causing (probably) grave financial circumstances. Believe me, local governments frequently indirectly cause this situation out of ignorance or politics, or both.

I hope this has been useful. If additional information is required please let me know.

Best personal regards,

H. R. REMINGTON PROPERTIES, INC.



David P. Dolter  
Vice President

DPD/cbg



# California Fair Political Practices Commission

July 2, 1986

Judith A. Robbins  
Assistant Town Attorney  
Town of Moraga  
Williams, Capole & Robbins  
P.O. Box 698  
Benicia, CA 94510

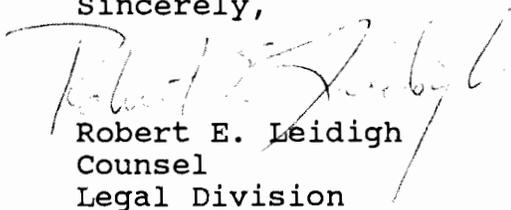
Re: Request for Advice  
Our File No. A-86-135

Dear Ms. Robbins:

On June 30, 1986, we received your letter dated June 25, 1986. Unfortunately, Mr. Dolter misinterpreted point number 3 from my May 14, 1986 letter. My question was regarding the possible effects of Planning Commission decisions on Central Bank, not on Oakwood or Remington. In addition, his response to point number 4 infers that your office can best respond.

Perhaps it would facilitate matters for me to contact Mr. Dolter directly at his office. Please advise, your timely response on this request and point number 4 will enable us to commence our work on this response at an early date.

Sincerely,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:MS:plh



# California Fair Political Practices Commission

May 14, 1986

Charles J. Williams  
Town Attorney  
Town of Moraga  
Williams, Capole & Robbins  
P.O. Box 698  
Benicia, CA 94510

Re: Request for Advice  
Our File No. A-86-135

Dear Mr. Williams:

I have received your recent request for advice on behalf of David P. Dolter, member of the Town of Moraga Planning Commission. Before we can respond to your request, some additional material facts are needed. Please respond to the following questions at your earliest convenience so that we may respond to your request in a timely manner. (See enclosed copy of regulation 2 Cal. Adm. Code Section 18329.)

(1) you have stated that "Mr. Dolter is a co-owner of H. R. Remington Properties, Inc., ... a corporation ...." Please advise as to what percentage of Remington he (and any member of his immediate family) owns. What is the value of his investment?

(2) How many joint venture projects does Remington have in which Oakwood is a 51% owner?

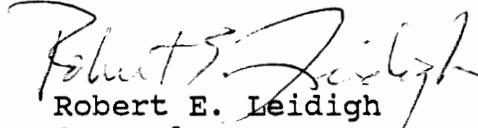
(3) In order to determine the possible effects upon Central Bank from decisions affecting the project, it is necessary to know something about the financing arrangement - i.e., have they already loaned money (if so, about how much), or is their lending contingent upon the approval of the projects?

(4) Lastly, from the examples of decisions which you provide in your letter (grading, etc.) it is hard to determine how those decisions might impact upon the project's lender - i.e., could they cause the project to have a cost overrun, thereby necessitating more financing or jeopardizing security for existing financing? Please advise.

Charles J. Williams  
May 14, 1986  
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Again, your early response will enable us to commence our work on this request at an early date.

Sincerely,

  
Robert E. Leidigh  
Counsel  
Legal Division

REL:plh



# California Fair Political Practices Commission

April 25, 1986

Charles J. Williams  
Moraga Town Attorney  
P.O. Box 698  
Benicia, CA 94510

Re: 86-135

Dear Mr. Williams:

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 "Robert E. Leidigh".

Robert E. Leidigh  
Counsel  
Legal Division

REL:plh

LAW OFFICES  
WILLIAMS, CAPLOE & ROBBINS  
1060 GRANT STREET, SUITE 201  
P. O. BOX 698  
BENICIA, CALIFORNIA 94510

CHARLES J. WILLIAMS  
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JUDITH A. ROBBINS

F P P C  
APR 24 2 47 PM '86  
TELEPHONE:  
415 228-3840  
(707) 746-1011

April 23, 1986

State of California  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804

Re: Request for Advice

Dear Sir or Madam:

This is a request for advice regarding the duties of a member of the Moraga Planning Commission under the conflict of interest provisions of the Political Reform Act (Government Code sections 81000-91015).

I have previously communicated by telephone with John McLean, Esq. of your office and he has been kind enough to provide me with the Commission's Opinion No. 83-004 (October 4, 1983) requested by Steven F. Nord, City Attorney of the City of Merced. While of some assistance, it does not provide a definitive guide to the circumstances we are presented with in the instance which follows.

Mr. David P. Dolter, a member of the Town of Moraga Planning Commission has requested that the following request for advice be submitted to you.

Factual Background

Mr. Dolter is a co-owner of H. R. Remington Properties, Inc. ("Remington"), a corporation involved in the acquisition and development of properties. None of Remington's investments or business activities are conducted in or around the Town of Moraga. In the course of Remington's business activities, it obtains venture capital from Oakwood Financial Service, Inc. ("Oakwood"), a wholly owned subsidiary of Central Bank. Oakwood furnishes venture capital to Remington in the form of investing in individual projects which Remington proposes to acquire and develop. When the parties decide to proceed with a project, Remington and Oakwood form a joint venture in which Oakwood is

Fair Political Practices Commission  
Page 2  
April 23, 1986

an investor and owns 51% of the project. This relationship between Remington and Oakwood is an ongoing relationship and not limited to a particular project or series of projects. Oakwood is an investor in these projects, not a lender.

It was learned recently that Central Bank is assisting the developer of a subdivision in the Town of Moraga with financing. We do not know the nature or terms of the financing. This information came to us only by happenstance and since learning of the information, there has been no action taken by Mr. Dolter or the Moraga Planning Commission concerning the project.

The project for which Central Bank is a lender to the developer consists of two subdivisions within the Town of Moraga. The borrower from the bank and the developer of the subdivisions is Northwood Homes. One subdivision involves the proposed creation of 91 single-family residential lots on 307 acres, the other consists of 19 single-family residential lots on 98 acres. Tentative maps for each of these subdivisions have been approved and Northwood Homes is in the process of attempting to comply with the many requirements which were imposed as conditions of approval. The Planning Commission will be called upon to review and determine whether or not Northwood Homes has complied with the conditions of approval. For example one of the conditions requires the submittal and approval of a grading plan by the Planning Commission. In addition other elements of each of the subdivisions is subject to prior Planning Commission approval as to the construction of subdivision improvements and the design of the residences.

In view of the relationship between Mr. Dolter's firm (Remington) and the Central Bank through its wholly owned subsidiary (Oakwood), and the fact that Central Bank is a lender to Northwood Homes, is Mr. Dolter disqualified from acting on any matters involving the subdivisions under development by Northwood Homes.

While we do not have any additional information as to the relationships between the various parties nor details concerning the financial transactions referred to, we would be happy to attempt to obtain any additional information which you may require in order to answer this inquiry.

Fair Political Practices Commission  
Page 3  
April 23, 1986

Thank you for your continued cooperation. I am,

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Charles J. Williams".

Charles J. Williams  
Town Attorney of Moraga

CJW:ss

cc: David P. Dolter