



# California Fair Political Practices Commission

August 6, 1986

Pat S. Miranda, Councilmember  
City of Irwindale  
5050 North Irwindale Avenue  
Irwindale, CA 91706

Re: Your Request for Advice  
Our File No. A-86-231

Dear Mr. Miranda:

Thank you for your letter requesting advice concerning your duties as a member of the Irwindale City Council and Redevelopment Agency under the conflict of interest provisions of the Political Reform Act.<sup>1/</sup> Your letter includes questions regarding Section 1090. We have not answered those questions because they are outside the jurisdiction of the Fair Political Practices Commission. You should contact your City Attorney for assistance with Section 1090. However, we are happy to provide advice concerning the Political Reform Act.

## QUESTION

Does the Political Reform Act prohibit you from leasing real property that you own to a major developer in the City of Irwindale?

## CONCLUSION

The Political Reform Act does not prohibit you from leasing real property that you own to a major developer in the City of Irwindale. However, the lease may affect your ability to participate in future decisions of the City Council or Redevelopment Agency concerning that developer.

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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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### ANALYSIS

You own real property located at the southeast corner of Irwindale Avenue and Arrow Highway, on which you operate a lunchstand. About 12 months ago, the Redevelopment Agency purchased the land across the street from your property and then resold it to "Birtcher," a major developer in the City of Irwindale. On the advice of the City Attorney, you disqualified yourself from participating in the resale decision.

Birtcher now wishes to lease your property, and has offered to pay an amount considered to be the fair market value. You stated in your letter that this transaction is unrelated to other Birtcher developments, and does not require any decisions by the City Council or Redevelopment Agency. You have asked if this lease would be in violation of the Political Reform Act or Section 1090, including the case of Thompson v. Call, 38 Cal. 3d 633 (1985). As initially noted in this advice letter, our advice is limited to the provisions of the Political Reform Act, and does not include any interpretation of Section 1090.

The Political Reform Act prohibits any public official from making, participating in, or using his official position to influence any governmental decision in which he knows or has reason to know he has a financial interest. Section 87100. The Act does not apply to decisions made by officials in their private capacity which do not require the involvement of public agencies.

The lease in question is a decision you will make in your private capacity rather than as a public official. Therefore, the Political Reform Act does not restrict your ability to enter into that transaction.

You should note, however, that by leasing your property to Birtcher, you will create a financial relationship with Birtcher which could affect your ability to participate in decisions, as a member of the Irwindale City Council or Redevelopment Agency, that would affect Birtcher. If you lease the property to Birtcher, Birtcher will become a source of income to you. Accordingly, you would be required to disqualify yourself from participating in any future decision which would have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on Birtcher. Section 87103(c). For example, if Birtcher is the applicant for a subdivision approval which comes before the City Council, you would be required to refrain from participating in the decision to approve the subdivision.

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Similarly, you could be disqualified from decisions to impose or increase developer fees in the City of Irwindale. We emphasize, however, that this potential for conflicts of interest in future governmental decisions does not prevent you from leasing your property to Birtcher.

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



F P P C  
**CITY OF IRWINDALE**

5050 NORTH IRWINDALE AVENUE · IRWINDALE, CALIFORNIA 91706  
(818) 962-3381

July 9, 1986

F.P.P.C.  
P.O. Box 807  
1100 K Street Building  
Sacramento 95804

Subject: G.C. 1090 and Political Reform Act.

Gentlemen:

I am a councilman in the City of Irwindale and sit as a member of the Community Redevelopment Agency.

I own and operate a lunch stand on a lot which I own on the southeast corner of Irwindale and Arrow - marked in yellow.

About 12 months ago, the CRA purchased land located on the northeast corner of Irwindale and Arrow - marked in pink - and then resold it to "Birtcher", who is a major developer in this City. On the advice of our City Attorney I abstained on this resale, although I have participated in other "Birtcher" decisions concerning development removed a mile or two from my business.

Birtcher now wishes to lease my property from me for which they wish to pay me a rental considered to be fair market value and not more than other offers I have received from other developers. This transaction will have nothing to do with other Birtcher developments.

I have entered into said lease on condition that it does not violate F.P.P.C. ruling, G. C. 1090 or the case of Thompson v. Call. If it does, the lease is void. There is no City or Agency involvement so I do not need to vote.

F.P.P.C.  
July 9, 1986

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Under these circumstances will you please inform me:

1. whether such transaction violates my prohibition; or
2. that you do not render such advisory opinions.

Very truly yours,

A handwritten signature in cursive script that reads "Pat S. Miranda". The signature is written in dark ink and is positioned above the typed name.

Pat S. Miranda

PSM/am

Encl.

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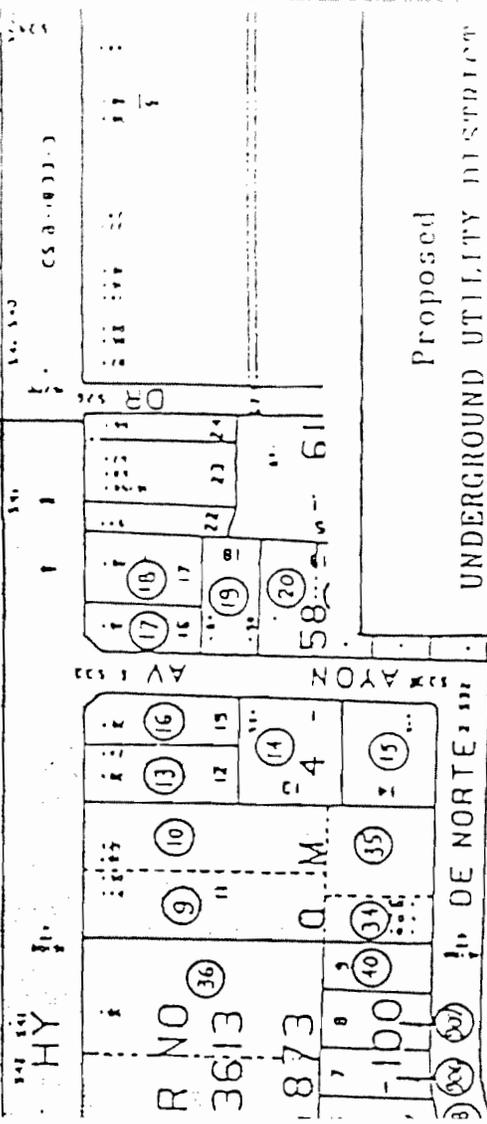
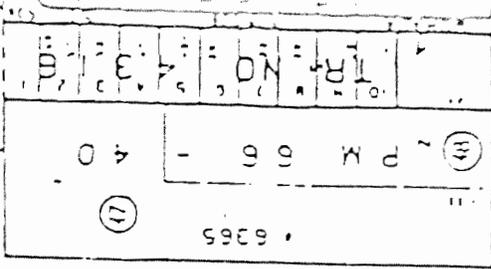
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# California Fair Political Practices Commission

July 18, 1986

Pat Miranda  
5050 North Irwindale Avenue  
Irwindale, CA 91706

Re: 86-231

Dear Ms. Miranda:

Your letter requesting advice under the Political Reform Act has been received on July 17, 1986 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 "Kathryn E. Donovan".

Kathryn E. Donovan  
Counsel  
Legal Division

KED:plh