



# California Fair Political Practices Commission

December 16, 1986

John E. Brown  
Best, Best & Krieger  
City Attorneys  
Cathedral City  
P.O. Box 1028  
Riverside, CA 92502

Re: Your Request for Advice on  
Behalf of Sarah E. Di Grandi,  
V. Harry Krings, Robert A.  
Hillery, and Gil L. Paquette  
Our File No. A-86-297- /

Dear Mr. Brown:

You have written requesting advice on behalf of four individual members of the Redevelopment Agency of the City of Cathedral City (the "agency"). We have consolidated your four letters, and this letter responds to all four. However, we have been requested to expedite our response relative to one of two pending redevelopment projects (Pace). It has been mutually agreed that in this letter we will analyze only the issues relative to that project. A supplemental letter will follow as to issues involving the other project (Kendra). Your original letters have been supplemented with facts obtained through numerous telephone conversations with yourself and with Dan Olivier of your firm. The most recent of these conversations occurred on December 15, 1986.

## QUESTION

Which, if any, of the four members of the agency, must disqualify from participation in certain pending agency decisions because of their economic interests in Cathedral City?

## CONCLUSION

Agency members Krings and Paquette may participate in the decisions involving the Pace project. Agency member Di Grandi may participate in decisions involving the Pace project unless it is reasonably foreseeable that the development of the Pace project will have a material financial effect upon Ms. Di Grandi's employer, Commonwealth Bank. Agency member Mayor Hillery must disqualify himself from participation in decisions affecting the Pace project.

## FACTS AND ANALYSES

### General Facts

The agency is currently negotiating with two separate redevelopers with respect to proposed redevelopment projects located within the City of Cathedral City. The Pace project involves the construction of a community shopping center on approximately ten (10) acres of land located in the agency's Redevelopment Project Area No. 3. The anchor tenant of the proposed community shopping center is a retail/wholesale membership warehouse facility ("Price Club"). This project shall be hereafter referred to as the "Pace" project.

The second proposed redevelopment project involves a several-block area within Redevelopment Project Area No. 1 in a downtown portion of the City of Cathedral City. The agency entered into an exclusive negotiation agreement with Kendra Development, Inc., a California corporation, on March 5, 1987, with respect to this project. This project is referred to as the "Kendra" project.

To assist in our review, you have included a large map detailing the boundaries of the agency's Redevelopment Project Area No. 3, as well as the locations of the proposed Pace project. The map also shows the approximate distances from the Pace project to real property held by some of the various agency members. Redevelopment Project Area No. 3 encompasses the area of the entire city except for those areas designated on the map as Redevelopment Project Areas Nos. 1 and 2. Redevelopment Project Areas Nos. 2 and 3 are not a subject of this particular letter.

### Agency Member Sarah E. Di Grandi

#### Facts

Ms. Di Grandi owns her home at 32-582 Shifting Sands Trail in Cathedral City. This property is located in a residential area within Redevelopment Project Area No. 3 and is approximately two miles from the Pace project. Ms. Di Grandi is also a regional vice president of Commonwealth Bank and works at a Commonwealth Bank branch office located at 35-975 Date Palm Drive, approximately 700 feet from the proposed Pace project site. The bank owns and occupies the building in which

Ms. Di Grandi works.<sup>1/</sup> Her position in the bank is salaried and full time, and it is her primary source of income. Ms. Di Grandi also owns more than \$1,000 of common stock in Commonwealth Bankshares Corp. Her ownership interest is less than one percent.

Ms. Di Grandi has inquired whether she can participate as a member of the agency on various issues relating to proceeding with the proposed Pace project. These include the selection of the participant developer, who would participate in the rehabilitation of the Pace project site. Similarly, Ms. Di Grandi has inquired whether she can participate on matters relating to the anticipated financing of the Pace project, including land acquisition and public improvement financing. These or similar issues may also come before the City Council of the City of Cathedral City, and Ms. Di Grandi would like to know if she must disqualify herself if and when such issues arise in the context of a city council action.

In particular, the agency is currently negotiating an agreement with a private developer with respect to the acquisition of the land by the agency and the sale thereof to the developer for development in accordance with the agreement. Various financing proposals are also likely to arise with respect to the Pace project, and Ms. Di Grandi would like to know whether she can participate, as a member of the agency, or as a city councilmember on such issues.

Finally, Ms. Di Grandi has inquired whether she can participate in any of the other discussions relating to these matters, such as exterior design of the project, during proceedings of either the agency or the city council.

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<sup>1/</sup> Commonwealth Bank has a ground lease for the property from Mission Hills Associates. The lease began in 1980, and it is for the term of 30 years, with an option to renew for 10 years. The bank constructed and owns the building. The ground lease is adjusted every five years for increases in the Consumer Price Index.

Analysis

The Political Reform Act (the "Act")<sup>2/</sup> 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.

A public official has a financial interest in a governmental decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on the official, a member of the official's immediate family, or on any one of the following economic interests:

(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.

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<sup>2/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

(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(a)-(e).

Ms. Di Grandi's residence is located in Redevelopment Project Area No. 3, which is the same project area in which the Pace project is situated. However, it appears from the map that a significant segment of all the residences in Cathedral City are also situated in that project area, which includes virtually the entire city. (See, Regulation 18703.) Consequently, we need not determine whether there will be a reasonably foreseeable material financial effect upon her real property interest (for instance, the Pace project could generate tax-increment revenues which could finance street improvements in front of her home). We have been provided with no facts which suggest that the effect on her residence from decisions regarding the Pace project will be different than the effect on other homeowners' residences in Redevelopment Project Area No. 3. Therefore, assuming no such facts, disqualification will not be required based upon her real property interest in her residence. (See, Owen Opinion, 2 FPCC Ops. 77 (No. 76-005, June 2, 1976), copy enclosed.)

Ms. Di Grandi's other relevant economic interest is her employer, Commonwealth Bank. She has an economic interest in Commonwealth Bank under subsections (a), (c) and (d) of Section 87103. Consequently, we must examine the reasonably foreseeable financial effects of the Pace decisions on Commonwealth Bank to determine if those effects are both material and distinguishable from the effects upon the public generally.

The bank has a ground lease for its building at 35-975 Date Palm Drive. It is across the street and approximately 700 feet south and west of the Pace project. The bank leases the location for its building on a long-term lease. The essential terms of that lease are set forth in footnote 1, supra.

Because the bank owns the structure and holds a long-term lease on the property, these are assets of the bank which could be affected by the decision to develop the Pace project. Commonwealth Bank has five branches and its shares are listed over the counter on the NASDAQ National Market List. Therefore,

the standard in Regulation 18702.2(d) will apply in determining materiality. Thus, if the decision will foreseeably result in an increase or decrease in the fiscal year gross revenues of the bank of \$150,000 or more, or will result in an increase or decrease in the value of the bank's assets of \$150,000 or more, the effects will be considered material. These effects will clearly be distinguishable from the effects upon the public generally. (See, Owen Opinion, supra.)

We have been provided no information as to the value of the structure or the value of the ground lease. You have advised that the Pace parcel is the last portion of undeveloped land in the vicinity. The bank's circumstances and proximity to the Pace project are similar to the situation in the Commission's Gillmor Opinion. (See, Gillmor Opinion, 3 FPPC Ops. 38 (No. 76-089, April 6, 1977), copy enclosed.) In that opinion, the Commission concluded that it was reasonably foreseeable that the effects of a nearby redevelopment project would affect the economic interests of Mayor Gillmor.

The economic interests involved in Mayor Gillmor's situation were subject to much lower standards for gauging materiality (Regulation 18702(b)(1) and (2)) than those applied in this instance to the bank, which is a large, nationally traded corporation. Without further information, it is not possible to accurately assess the foreseeable effects upon the bank. For instance, will the bank make any loans with respect to the Pace project? Will the Pace shopping center contain a competing bank? Mr. Olivier has indicated that there are no plans for a bank, but that one could be located there. Either of these could affect the bank's gross revenues. We leave assessment of the reasonably foreseeable effects upon the bank's interests to you.

Agency Member V. Harry Krings

#### Facts

Mr. Krings and his wife, Diana, are the owners and sole shareholders of a closely held corporation known as H & D Krings, Inc. H & D Krings, Inc., operates a gasoline service station at 68-630 East Palm Canyon Drive within the agency's Redevelopment Project No. 1. As shown on the map, the service station is approximately 3900 feet from the Pace project. H & D Krings, Inc., leases the service station facilities from Standard Oil Company, and the lease has an unexpired term of

approximately three years. Mr. Krings also receives a salary from H & D Krings, Inc., which is Mr. Krings' primary source of income.

Mr. and Mrs. Krings also own their residence at 67905 Carroll Drive in Cathedral City. This property is located within a residential area of Redevelopment Project No. 3, and, as indicated on the map, is over two miles from the Pace project.

Mr. Krings has posed the same series of inquiries regarding upcoming decisions about the Pace Project that Ms. Di Grandi has posed.

#### Analysis

The analysis with respect to Agency member Krings' home is the same as for Councilmember Di Grandi's home, above. The "public generally" exception applies, and no disqualification should be required.

As for the Krings' interest in the service station business and leasehold interest in the property where it is located, there is no reason to foresee that the Pace project--located approximately 3,900 feet away, across a river and on a different street--will have a material financial effect upon either their business or real property.

The only other possible economic interest which Agency member Krings might have which could conceivably be affected in a material manner would be sources of income to him through his wholly-owned business. As an owner of 10 percent or more of that business entity, sources of income to the business entity are sources of income to him. (Section 82030(a).) Consequently, if a source of \$250 or more in income to H & D Krings, Inc., within the past 12 months, would be affected in a material manner by the Pace decision, disqualification could be required. You have provided us with no facts which suggest that this might be the case. Consequently, assuming no such facts exist, we conclude that Mr. Krings may participate as to the Pace project. However, if you become aware of facts indicating that further inquiry is necessary in this regard, please contact this office at once. Our analysis could change if such facts come to our attention.

Agency Member Robert A. Hillery

Facts

Robert Hillery and his wife, Nadine Hillery, own interests in real property at several locations within or immediately adjacent to Redevelopment Project Area No. 1. Specifically, they own their residence at 68-675 "D" Street. They operate a sole proprietorship from the residence for Mr. Hillery's appraisal and life insurance business. The other properties (owned either in fee or pursuant to a contract of sale) by Mr. and Mrs. Hillery within Redevelopment Project Area No. 1 include various improved commercial properties at 68-63 "D" Street, 68-820 Grove Street, 68-798 Grove Street, 68-788 Grove Street, 68-784 Grove Street, 68-772 and 778 Grove Street, and 68-762 East Palm Canyon Drive. These properties, as indicated on the map, are all a substantial distance from the Pace project.

The Hillerys also own a mini-storage facility located at 68-734 Perez Road in Redevelopment Project Area No. 3, which property is a substantial distance from the Pace project. They further own certain vacant land in an undeveloped western portion of the city which is two miles from the Pace project.

Finally, Mr. and Mrs. Hillery own a 6.6 acre parcel of land at the corner of Gerald Ford and Date Palm Drive (commonly known as 35-871 and 35-935 Date Palm Drive) within Redevelopment Project Area No. 3. This parcel, as shown on the map, is 300 feet or less from the proposed Pace project. Some of this land is directly across the street from the Pace Project, while the remainder is further down the street.

The 6.6 acre parcel has been ground leased to Mission Hills Associates for a lease term of sixty-five years with three extension options of ten years each. The lease term began in 1979; thus, the length of the unexpired lease term, excluding the extension options, is approximately fifty-eight years. This land has been improved by the lessee under the ground lease and includes Commonwealth Bank, a savings and loan, a Lucky supermarket, and various retail and commercial stores, some of which are being subleased by the lessee.

Under the terms of the lease, Mr. and Mrs. Hillery, as lessors, receive a base rent during the entire term of the lease in an amount in excess of \$10,000 but less than \$100,000 per year. This base rent is subject to increase based on

increases in the Cost of Living Index. In addition to the base rent described above, the Hillerys may be entitled to percentage rent under the lease. However Mr. and Mrs. Hillery do not believe that it is reasonably foreseeable that they will be receiving any percentage rents under the terms and conditions of the lease in the near future.

Mr. Hillery has posed the same series of inquiries regarding upcoming decisions about the Pace project that Ms. Di Grandi and Mr. Krings have posed.

#### Analysis

Mayor Hillery has substantial real property holdings (6.6 acres) immediately across the street and extending down the block from the proposed Pace project. Unlike the bank which holds the real property interests in the case of Ms. Di Grandi, these properties are held directly by the mayor and his wife. Consequently, the appropriate test to be applied is that found in Regulation 18702(b)(2) which provides as follows:

(2) Whether, in the case of a direct or indirect interest in real property of one thousand dollars (\$1,000) or more held by a public official, the effect of the decision will 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.

Applying the foregoing test to the facts provided, we conclude that it is reasonably foreseeable that Mayor Hillery's

real property interest will be affected in a manner which is both foreseeable and material. (See, Ogelsby Opinion, 1 FPPC Ops. 71 (No. 75-083, July 2, 1975), copy enclosed; Gillmor Opinion, supra; and Witt v. Morrow (1977) 70 Cal.App. 3d 817, 822; 139 Cal.Rptr. 161.) Therefore, Mayor Hillery must disqualify himself as to the Pace project.<sup>3/</sup>

In addition to his real property interests, Mayor Hillery also has a source of income from the lease of the property. That source of income may be affected by the decision as well. (See, Ogelsby Opinion, supra.) The effect on either his real property or source of income interests will clearly be distinguishable from the effect upon the public generally. (See, Owen Opinion, supra; Legan Opinion, 9 FPPC Ops. 1 (No. 85-001, Aug. 20, 1985), copy enclosed.)

Agency Member Gil L. Paquette

#### Facts

Mr. Paquette and his wife, Janine, own their own residence at 68451 Moonlight Drive in Cathedral City. This property is located in a residential section of Redevelopment Project Area No. 3, well over a mile from the Pace project. In addition, Mr. Paquette owns one-third of a closely held real estate corporation known as Century 21 Encore Realty, Inc. Mr. Paquette is a realtor associate and derives his primary source of income from commissions received in connection with this real estate business. The corporation leases offices at 68-487 East Palm Canyon, Suite 42, in Cathedral City. The offices are located a substantial distance from the proposed Pace project.

Century 21 Encore Realty, Inc., has had no residential or commercial listings in close proximity to the proposed Pace project within the past 12 months. Nor, to Mr. Paquette's knowledge, has Century 21 Encore Realty, Inc., had any clients in the last 12 months who have interests in close proximity to the Pace project. Most of Century 21 Encore Realty, Inc.'s real estate listings in Cathedral City are residential properties located in the Cove Community in the western portion of Cathedral City, within Redevelopment Project Area No. 3.

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<sup>3/</sup> See, Biondo, Opinion, 1 FPPC Ops. 54 (No. 75-036, July 2, 1975), copy enclosed, for a discussion of the requirements of disqualification, which include not chairing meetings.

Mr. Paquette has posed the same series of inquiries regarding upcoming decisions about the Pace project that the other three agency members have posed.

Analysis

Mr. Paquette's residence is subject to the same analysis as Ms. Di Grandi's and Mr. Krings' residences. It should not form the basis for disqualification.

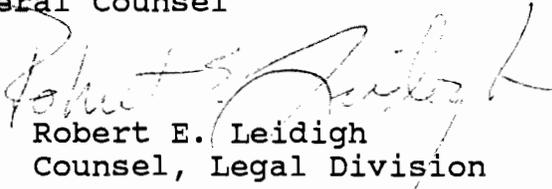
Mr. Paquette's employment with and ownership of Century 21 Encore Realty, Inc., could form the basis for disqualification. However, based upon the facts presented, this seems unlikely. Disqualification on this basis would not be required as to the Pace project unless it is reasonably foreseeable that the realty firm will be involved in leasing space in the Pace project or in sales transactions in the immediate vicinity of the Pace project. Mr. Paquette has advised Mr. Olivier that these will not be the case.

In addition, disqualification would be required if any other source of income to Mr. Paquette (i.e., a real estate sales client - see Regulation 18704.2(c)(3)) would be reasonably foreseeably affected by the Pace project in a material manner. Mr. Olivier has inquired of Mr. Paquette to determine if this is an issue which requires further inquiry. He has advised Mr. Olivier that it does not, since his firm's clients have no interests in the vicinity of the Pace project.

If you have any questions regarding the advice in this letter, I may be reached at (916) 322-5901. I will be in touch with you seeking additional material facts necessary to complete the analysis for the Kendra project.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Counsel, Legal Division

DMG:REL:km  
Enclosures  
cc: Sarah E. Di Grandi  
V. Harry Kings  
Robert A. Hillery  
Gil L. Paquette

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RICHARD A. OSHINS, OF COUNSEL  
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Sacramento, CA 95804-0807

Re: Request for Written Advice on Behalf of  
Redevelopment Agency Members, City of  
Cathedral City, California

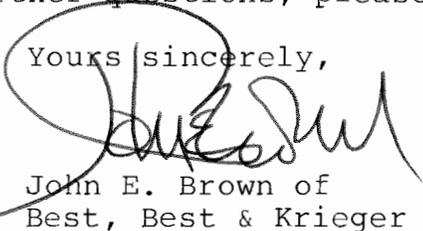
Dear Mr. Leidigh:

This letter is in response to correspondence received from Ms. Griffiths, dated October 30, 1986, requesting a supplemental letter of request.

As noted in our letters of October 27, 1986, requesting advice on behalf of Sarah E. Digrandi, V. Harry Krings, Robert A. Hillery and Gil L. Paquette, we were instructed to request such opinion by unanimous vote of the Redevelopment Agency of the City of Cathedral City. Members, Digrandi, Krings, Hillery and Paquette are the members of that Redevelopment Agency and each member concurred in the vote requesting such opinions.

If you have any further questions, please let me know.

Yours sincerely,

  
John E. Brown of  
Best, Best & Krieger  
Counsel, Redevelopment Agency  
City of Cathedral City

JEB:jwr  
Enclosure  
cc: Jack Smith  
Maxine Clem

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CITY OF CATHEDRAL CITY

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Cathedral City, CA 92234

Mr. Robert A. Hillery  
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Cathedral City, CA 92234

Mr. V. Harry Krings  
67905 Carroll Drive  
Cathedral City, CA 92234

Mr. Gil L. Paquette  
68451 Moonlight drive  
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WASHINGTON, D. C. COURT OF CLAIMS

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RE: REQUEST FOR WRITTEN ADVICE ON BEHALF  
of SARAH E. DIGRANDI  
(REDEVELOPMENT AGENCY OF THE CITY OF  
CATHEDRAL CITY, CALIFORNIA)

Ladies and Gentlemen:

We are Counsel to the Redevelopment Agency of the City of Cathedral City, California (the "Agency"). We have been instructed by the members of the Agency to request your written advice with respect to certain economic interests held by members of the Agency who have economic interests within the City of Cathedral City. This particular letter request relates to Sarah E. Di Grandi, who is a member of the Agency and a member of the City Council of the City of Cathedral City. The other requests sent concurrently herewith relate to the other members of the Agency who have economic interests within the City of Cathedral City.

The Agency is currently negotiating with two separate redevelopers with respect to proposed redevelopment projects located in Redevelopment Project Areas within the City of Cathedral City. The first proposed redevelopment project involves the construction of a community shopping center on approximately ten (10) acres of land located in the Agency's Redevelopment Project Area No. 3. The anchor tenant of the proposed community shopping center is a retail/wholesale membership warehouse facility, and this project shall be hereinafter referred to as the "Pace Project". The second proposed redevelopment project involves the redevelopment of a several-block area within Redevelopment Project No. 1 in a downtown portion of the

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BEST, BEST & KRIEGER

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City of Cathedral City. This proposed development includes the use of the development site as a mixed-use commercial and residential development consisting of hotels, motels, commercial office buildings and stores, and multi-family residential dwelling units. The Agency has entered into an exclusive negotiation agreement with Kendra Development, Inc., a California corporation, on March 5, 1986, with respect to this project, and this project shall hereinafter be referred to as the "Kendra Project".

To assist in your review, we have included a large map detailing the boundaries of the Agency's Redevelopment Project Areas Nos. 1 and 3, as well as the locations of the proposed Pace and Kendra projects. The map also shows the approximate distances real property is held by some of the various Agency members to the Pace and Kendra projects. Please note that Redevelopment Project Area No. 3 encompasses the area of the entire City except for those areas designated on the map as Project Areas Nos. 1 and 2.

Ms. Di Grandi owns her home at 32-582 Shifting Sands Trail in Cathedral City. This property is located in a residential area within Redevelopment Project No. 3 and is approximately two miles from both the Kendra and Pace Projects. Ms. Di Grandi is also a regional vice president of Commonwealth Bank and works at a Commonwealth Bank branch office located at 35-975 Date Palm Drive, approximately 700 feet from the proposed Pace Project site. The bank leases the building in which Ms. Di Grandi works. Her position in the bank is salaried and full time, and it is her primary source of income. Ms. Di Grandi also owns more than \$1,000.00 of common stock in Commonwealth Bank, which ownership interest represents substantially less than one percent of the value of the outstanding common stock of the bank.

Ms. Di Grandi has inquired whether she can vote as a member of the Agency on various issues relating to proceeding with the Kendra Project, including the selection of successor or participant developers who would associate with Kendra or succeed Kendra in the rehabilitation of the Kendra Project site. Similarly, Ms. Di Grandi has inquired whether she can vote on matters relating to the anticipated financing of the Kendra Project, including land acquisition and public improvement financing. These or similar issues may also come before the City Council of the City of Cathedral City, and Ms. Di Grandi would like to know if she must disqualify herself if and when such issues arise in the context of a City Council vote.

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Of course, these same types of issues will also arise with respect to the Pace Project. In particular, the Agency is currently negotiating a disposition and development agreement with a private developer with respect to the acquisition of the land by the Agency, and the sale thereof to the developer for development in accordance with the agreement. Various financing proposals are also likely to arise with respect to the Pace Project and Ms. Di Grandi would like to know whether she can vote, as a member of the Agency, or as a City Council member on such issues.

Finally, Ms. Di Grandi has inquired whether she can participate in any of the discussions relating to these matters, such as exterior designs of the projects, during proceedings of either the Agency or the City Council of the City of Cathedral City.

If you require any additional information with respect to the above, please do not hesitate to contact me. Given the importance of these issues to the City of Cathedral City, we would appreciate it if you could render a written opinion to me at the address noted herein at your earliest convenience.

Sincerely,



John E. Brown  
of Best, Best & Krieger  
Counsel, Redevelopment Agency  
City of Cathedral City

DEO/ss

cc: Ms. Sarah E. DiGrandi  
Jack Smith

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GORDON COLOGNE, OF COUNSEL  
JAMES B. CORISON, OF COUNSEL  
RICHARD A. OSHINS, OF COUNSEL  
ADMITTED IN: NEW YORK, NEVADA  
WASHINGTON, D. C. COURT OF CLAIMS

October 27, 1986

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Fair Political Practices Commission  
428 "J" Street, Suite 800  
P.O. Box 807  
Sacramento, California 95814

RE: REQUEST FOR WRITTEN ADVICE ON  
BEHALF OF V. HARRY KRINGS  
(REDEVELOPMENT AGENCY OF THE CITY OF  
CATHEDRAL CITY, CALIFORNIA)

Ladies and Gentlemen:

We are Counsel to the Redevelopment Agency of the City of Cathedral City, California (the "Agency"). We have been instructed by the members of the Agency to request your written advice with respect to certain economic interests held by members of the Agency who have economic interests within the City of Cathedral City. This particular letter request relates to V. Harry Krings, who is a member of the Agency and a member of the City Council of the City of Cathedral City. The other requests sent concurrently herewith relate to the other members of the Agency who have economic interests within the City of Cathedral City.

The Agency is currently negotiating with two separate redevelopers with respect to proposed redevelopment projects located within two previously approved redevelopment project areas within the City of Cathedral City. The first proposed redevelopment project involves the construction of a community shopping center on approximately ten (10) acres of land located in Redevelopment Project Area No. 3 of the Agency. The anchor tenant of the proposed community shopping center is proposed to be a retail/wholesale membership warehouse facility, and this project shall be hereinafter referred to as the "Pace Project". The second proposed redevelopment project involves the redevelopment of a several-block area within Redevelopment Project No. 1 in a downtown portion of the City of Cathedral City. This proposed development includes the use

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of the development site as a mixed-use commercial and residential development consisting of hotels, motels, commercial office buildings and stores, and multi-family residential dwelling units. The Agency entered into an exclusive negotiation agreement with Kendra Development, Inc., a California corporation, on March 5, 1986, with respect to this project, and this project shall hereinafter be referred to as the "Kendra Project".

To assist in your review, we have included a large map detailing the boundaries of the Agency's Redevelopment Project Areas Nos. 1 and 3, as well as the locations of the proposed Pace and Kendra projects. The map also shows the approximate distances from interests in real property held by some of the Agency members to the Pace and Kendra projects. Please note that Redevelopment Project Area No. 3 encompasses the entire area of the City except for those areas designated on the map as Project Areas Nos. 1 and 2.

Mr. Krings and his wife, Diana, are the owners and sole shareholders of a closely held corporation known as H & D Krings, Inc. H & D Krings, Inc. operates a gasoline service station at 68-630 East Palm Canyon Drive within the Agency's Redevelopment Project No. 1. As shown, the service station is adjacent to the Kendra Project and approximately 3900 feet from the Pace Project. H & D Krings, Inc. leases the service station facilities from Standard Oil Company, and the lease has an unexpired term of approximately three years. Mr. Krings also receives a salary from H & D Krings, Inc., which is Mr. Krings' primary source of income.

Mr. and Mrs. Krings also own their residence at 67905 Carroll Drive in Cathedral City. This property is located within a residential area of Redevelopment Project No. 3, and, as indicated on the map, is over one mile from the proposed Kendra Project and over two miles from the Pace Project.

Mr. Krings has inquired whether he can vote as a member of the Agency on various issues relating to the Kendra Project, including the selection of successor or participant developers who would associate with Kendra or succeed Kendra in the rehabilitation of the Kendra Project site. Similarly, Mr. Krings has inquired whether he can vote on matters relating to the anticipated financing of the Kendra Project, including land acquisition and public improvement

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Page Three

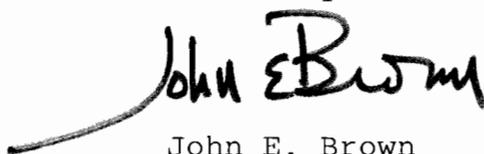
financing. These or similar issues may also come before the City Council of the City of Cathedral City, and Mr. Krings would like to know if he must disqualify himself if and when such issues arise in the context of a City Council vote.

Of course, these same types of issues will also arise with respect to the Pace Project. In particular, the Agency is currently negotiating a disposition and development agreement with a private developer with respect to the acquisition of the land by the Agency, and the sale thereof to the developer for development in accordance with the agreement. Various financing proposals are also likely to arise with respect to the Pace Project and Mr. Krings would like to know whether he can vote, as a member of the Agency, or as a City Council member on such issues.

Finally, Mr. Krings has inquired whether he can participate in any of the discussions relating to these matters, such as exterior designs of the projects, during proceedings of either the Agency or the City Council of the City of Cathedral City.

If you require any additional information with respect to the above, please do not hesitate to contact me. Given the importance of these issues to the City of Cathedral City, we would appreciate it if you could render a written opinion to me at the address noted herein at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "John E. Brown". The signature is written in a cursive style with a long horizontal stroke extending to the left.

John E. Brown  
of Best, Best & Krieger  
Counsel, Redevelopment Agency  
City of Cathedral City

DEO/ss

cc: Mr. V. Harry Krings  
Jack Smith

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RE: REQUEST FOR WRITTEN ADVICE ON BEHALF  
OF ROBERT A. HILLERY  
(REDEVELOPMENT AGENCY OF THE CITY OF  
CATHEDRAL CITY, CALIFORNIA)

Ladies and Gentlemen:

We are Counsel to the Redevelopment Agency of the City of Cathedral City, California (the "Agency"). We have been instructed by the members of the Agency to request your written advice with respect to certain economic interests held by members of the Agency who have economic interests within the City of Cathedral City. This particular request relates to Mr. Robert A. Hillery, who is the Chairman of the Agency, and the Mayor of the City of Cathedral City. The other requests sent concurrently herewith relate to the other members of the Agency who have economic interests within the City of Cathedral City.

The Agency is currently negotiating with two separate redevelopers with respect to proposed redevelopment projects located in Redevelopment Project Areas within the City of Cathedral City. The first proposed redevelopment project involves the construction of a community shopping center on approximately ten (10) acres of land located in Redevelopment Project Area No. 3. The anchor tenant of the proposed community shopping center is a retail/wholesale membership warehouse facility, and this project shall be hereinafter referred to as the "Pace Project". The second proposed redevelopment project involves the redevelopment of a several-block area within Redevelopment Project No. 1 in a downtown portion of the City of Cathedral City. This proposed development includes the use of

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the development site as a mixed-use commercial and residential development consisting of hotels, motels, commercial office buildings and stores, and multi-family residential dwelling units. The Agency has entered into an exclusive negotiation agreement with Kendra Development, Inc., a California corporation, on March 5, 1986, with respect to this project, and this project shall hereinafter be referred to as the "Kendra Project".

To assist in your review, we have included a large map detailing the boundaries of Redevelopment Project Areas Nos. 1 and 3 in the City of Cathedral City, as well as the locations of the proposed Pace and Kendra Projects. The map also shows the approximate distances from the interests in real property held by the various Agency members to the Pace and Kendra Projects. Please note that Redevelopment Project Area No. 3 as indicated on the map encompasses the entire City of Cathedral City except for those areas designated on the map as Project Areas Nos. 1 and 2.

Robert Hillery and his wife, Nadine Hillery, own interests in real property at several locations within or immediately adjacent to Redevelopment Project Area No. 1 in the City of Cathedral City. Specifically, they own their residence at 68-675 "D" Street, from which Mr. and Mrs. Hillery operate a sole proprietorship for Mr. Hillery's appraisal and life insurance business. The other properties (owned either in fee or pursuant to a contract of sale) by Mr. and Mrs. Hillery within Redevelopment Project Area No. 1 include various improved commercial properties at 68-653 "D" Street, 68-820 Grove Street, 68-798 Grove Street, 68-788 Grove Street, 68-784 Grove Street, 68-772 and 778 Grove Street, and 68-762 East Palm Canyon Drive. These properties, as indicated on the map, are located either adjacent to or within a few blocks of the proposed Kendra Project. On the other hand, these properties are all a sizeable distance from the Pace Project.

The Hillerys also own a mini-storage facility located at 68-734 Perez Road in Redevelopment Project Area No. 3, which property is a sizeable distance from both the Pace and Kendra Projects, and certain vacant land in an undeveloped western portion of the city which is over a mile from the Kendra Project and two miles from the Pace Project.

Finally, Mr. and Mrs. Hillery own a 6.6 acre parcel of land at the corner of Gerald Ford and Date Palm Drive (commonly known as 35-871 and 35-935 Date Palm Drive) within Redevelopment Project Area No. 3. This parcel, as shown on the map, is approximately 300 feet from the proposed Pace Project. The land has been ground leased to Mission Hills Associates for a lease term of sixty-five years with three extension options of ten years each.

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The lease term began in 1979; thus, the length of the unexpired lease term, excluding the extension options, is approximately fifty-eight years. This land has been improved by the lessee under the ground lease and includes a bank, savings and loan, Lucky supermarket, and various retail and commercial stores, some of which are being subleased by the lessee. Under the terms of the lease, Mr. and Mrs. Hillery, as lessors, receive a base rent during the entire term of the lease in an amount of in excess of \$10,000 but less than \$100,000 per year. This base rent is subject to increase based on increases in the Cost of Living Index. In addition to the base rent described above, the Hillerys may be entitled to percentage rent under the lease. However, Mr. and Mrs. Hillery do not believe that it is reasonably foreseeable that they will be receiving any percentage rents under the terms and conditions of the lease in the near future.

As a longtime resident of the City of Cathedral City, Mr. Hillery has strong opinions about the redevelopment efforts in the City of Cathedral City and has inquired whether he can vote as a member of the Agency on various issues relating to proceeding with the Kendra Project, including the selection of successor or participant developers who would associate with Kendra or succeed Kendra in the rehabilitation of the Kendra Project site. Similarly, Mr. Hillery has inquired whether he can vote on matters relating to the anticipated financing of the Kendra Project, including land acquisition and public improvement financing. These issues may also arise in the context of Mr. Hillery's status as a member of the City Council and Mayor of the City of Cathedral City.

Of course, these same types of issues will also arise with respect to the Pace Project. In particular, the Agency is currently negotiating a disposition and development agreement with a private developer with respect to the acquisition of the land by the Agency, and the sale thereof to the developer for development in accordance with the agreement. Various financing proposals are also likely to arise with respect to the Pace Project and Mr. Hillery would like to know whether he can vote, as a member of the Agency, or as a City Council member and Mayor on such issues. Further, Mr. Hillery has inquired whether he can participate in any of the discussions relating to these matters, such as exterior designs of the projects, during proceedings of either the Agency or the City Council of the City of Cathedral City.

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Page Four

If you require any additional information with respect to the above, please do not hesitate to contact me. Given the importance of these issues to the City of Cathedral City, we would appreciate it if you could render a written opinion to me at the address noted herein at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "John E. Brown". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

John E. Brown  
of Best, Best & Krieger  
Counsel, Redevelopment Agency  
City of Cathedral City

DEO/ss

cc: Mr. Robert A. Hillery  
Jack Smith

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RE: REQUEST FOR WRITTEN ADVICE ON BEHALF  
OF GIL L. PAQUETTE  
(REDEVELOPMENT AGENCY OF THE CITY OF  
CATHEDRAL CITY, CALIFORNIA)

Ladies and Gentlemen:

We are Counsel to the Redevelopment Agency of the City of Cathedral City, California (the "Agency"). We have been instructed by the members of the Agency to request your written advice with respect to certain economic interests held by members of the Agency who have economic interests within the City of Cathedral City. This particular request relates to Gil L. Paquette, who is a member of the Agency and a member of the City Council of the City of Cathedral City. The other requests sent concurrently herewith relate to the other members of the Agency who have economic interests in the City of Cathedral City.

The Agency is currently negotiating with two separate redevelopers with respect to proposed redevelopment located in Redevelopment Project Areas within the City of Cathedral City. The first proposed development project involves the construction of a community shopping center on approximately ten (10) acres of land located in the Agency's Redevelopment Project Area No. 3. The anchor tenant of the proposed community shopping center is a retail/wholesale membership warehouse facility, and this project shall be hereinafter referred to as the "Pace Project". The second proposed redevelopment project involves the redevelopment of a several-block area within Redevelopment Project No. 1 in a downtown portion of the City of Cathedral City. This proposed development includes the use of the development site as a mixed-use commercial and residential development consisting of hotels, motels, commercial office buildings and stores, and multi-family residential dwelling units.

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The Agency has entered into an exclusive negotiation agreement with Kendra Development, Inc., a California corporation, on March 5, 1986, with respect to this project, and this project shall hereinafter be referred to as the "Kendra Project".

To assist in your review, we have included a large map detailing the boundaries of Redevelopment Project Areas Nos. 1 and 3 in the City of Cathedral City, as well as the locations of the proposed Pace and Kendra Projects. The map also shows the approximate distances from the interests in real property held by the various Agency members to the Pace and Kendra Projects. Please note that Redevelopment Project Area No. 3 as indicated on the map encompasses the entire City of Cathedral City except for those areas designated on the map as Project Areas Nos. 1 and 2.

Mr. Paquette and his wife, Janine, own their own residence at 68451 Moonlight Drive in Cathedral City. This property is located in a residential section of Redevelopment Project No. 3, approximately 3500 feet from the Kendra Project and well over a mile from the Pace Project. In addition, Mr. Paquette owns fifty percent of a closely held real estate corporation known as Century 21 Encore Realty, Inc. Mr. Paquette is a Realtor associate and derives his primary source of income from commissions received in connection with this real estate business. The corporation leases offices at 68-487 East Palm Canyon, Suite 42, in Cathedral City. The offices are within one block of the proposed Kendra Project. Century 21 Encore Realty, Inc. has no residential or commercial listings within Redevelopment Project Area No. 1 and has no listings in close proximity to the proposed Pace Project. Most of Century 21 Encore Realty, Inc.'s real estate listings in Cathedral City are residential properties located in the Cove Community in the western portion of Cathedral City, within Redevelopment Project No. 3.

Mr. Paquette has inquired whether he can vote as a member of the Agency on various issues relating to the Kendra Project, including the selection of successor or participant developers who would associate with Kendra or succeed Kendra in the rehabilitation of the Kendra Project site. Similarly, Mr. Paquette has inquired whether he can vote on matters relating to the anticipated financing of the Kendra Project, including land acquisition and public improvement financing. These or similar issues may also come before the City Council of the City of Cathedral City, and Mr. Paquette would like to know if he must disqualify himself if and when such issues arise in the context of a City Council vote.

LAW OFFICES OF  
BEST, BEST & KRIEGER

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Of course, these same types of issues will also arise with respect to the Pace Project. In particular, the Agency is currently negotiating a disposition and development agreement with a private developer with respect to the acquisition of the land by the Agency, and the sale thereof to the developer for development in accordance with the agreement. Various financing proposals are also likely to arise with respect to the Pace Project and Mr. Paquette would like to know whether he can vote, as a member of the Agency, or as a City Council member on such issues.

Finally, Mr. Paquette has inquired whether he can participate in any of the discussions relating to these matters, such as exterior designs of the projects, during proceedings of either the Agency or the City Council of the City of Cathedral City.

If you require any additional information with respect to the above, please do not hesitate to contact me. Given the importance of these issues to the City of Cathedral City, we would appreciate it if you could render a written opinion to me at the address noted herein at your earliest convenience.

Sincerely,



John E. Brown  
of Best, Best & Krieger  
Counsel, Redevelopment Agency  
City of Cathedral City

DEO/ss

cc: Mr. Gil L. Paquette  
Jack Smith



# California Fair Political Practices Commission

October 30, 1986

John E. Brown  
Best, Best & Krieger  
P.O. Box 1028  
Riverside, CA 92502

Re: 86-297

Dear Mr. Brown:

Your letters requesting advice under the Political Reform Act were received on October 28, 1986, by the Fair Political Practices Commission. Commission Regulation 18329(b)(2) (copy enclosed) requires a request for formal written advice to include a specific statement that you have been authorized to request the advice by the person whose duties under the Act are in question. Please send us a supplemental letter stating that you are so authorized by each of the officials on whose behalf you have requested advice. Please also include in your letter the mailing address of each official.

We try to answer all advice requests promptly. Therefore, unless your requests pose particularly complex legal questions, or more information is needed, you should expect a response within 21 working days after we receive your supplemental letter. If you have any questions about your advice requests, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:plh

cc: Sarah E. Digrandi  
V. Harry Kings  
Robert A. Hillery  
Gil L. Paquette