



# California Fair Political Practices Commission

March 18, 1987

Terry S. Matz  
City Manager  
City of Blythe  
220 North Spring Street  
Blythe, CA 92225

Re: Your Request for Advice  
Our File No. I-87-056

Dear Mr. Matz:

You have written requesting formal written advice pursuant to Government Code Section 83114(b). However, because of the general nature of your questions and the lack of detailed facts regarding any specific pending decision, we treat your request as one for informal assistance.<sup>1/</sup> You have written on behalf of five members of the city council who are also the members of the city's redevelopment agency.

## QUESTION

Under what circumstances will the various members of the council and redevelopment agency be required to disqualify themselves with regard to council or agency decisions?

## CONCLUSION

Members of the council and agency will be required to disqualify themselves only as to those decisions which will have a reasonably foreseeable material financial effect, distinguishable from the effect upon the public generally, on any of their respective economic interests. We do not have sufficient factual information to make this determination with respect to specific pending decisions.

## FACTS

The Blythe City Council also sits as the board of directors for the local redevelopment agency. In each of these

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<sup>1/</sup> Informal assistance is provided pursuant to 2 California Administrative Code Section 18329(c) (copy enclosed); it does not give the requestor the immunity provided for in Government Code Section 83114(b).

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capacities, the members are called upon to participate in various decisions regarding the redevelopment project area in the City of Blythe.

In addition to the basic redevelopment decisions, the redevelopment agency is considering adoption of a Downtown Revitalization Plan which would establish development standards, an architectural theme, and sign standards in the downtown area of Blythe.

At this time, we have not been provided with specific facts regarding what those decisions may entail, nor have we been provided with any detailed information regarding the redevelopment project area. Consequently, as previously noted, we are treating your letter as a request for informal assistance. You have provided the following information concerning the five city councilmembers:

Robert L. Means is a realtor who conducts business within the city and within the redevelopment project area. He owns property within the project area and elsewhere in the city.

Thomas Farrage is an insurance agent, who owns a significant amount of property both within the project area and elsewhere in the city. Mr. Farrage's wife is a real estate broker, who from time to time may have listings within the project area and elsewhere within the city.

Warren Port is a retired optometrist, who owns property within the project area and elsewhere within the city.

William Martindale is the owner of an auto parts store located outside the city. He owns no property within the redevelopment project area. Elsewhere within the city, he owns his own residence. His wife is a licensed real estate salesperson who works in Mr. Means' real estate office and who from time to time may have listings within the project area and elsewhere within the city.

Doris Morgan is the office manager for an automobile dealership within the city. She does not have any ownership interest in the business and works for a salary, not on a commission basis. She and her husband own a wholesale dairy products distributing business located outside the city. The business has customers within the city. She owns no property within the redevelopment project area and owns only her personal residence elsewhere in the city. Her employer, the automobile dealership, may bid for contracts to sell vehicles to the city.

ANALYSIS

The Political Reform Act (the "Act")<sup>2/</sup> provides that no public official shall make, participate in making, or use his or her official position to influence or attempt to influence, any governmental decision in which the official 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....

Section 87103.

Under these statutory provisions, whenever any of the councilmembers has a financial interest in the decision of either the council or of the agency, that member will be required to disqualify himself or herself. A financial interest exists whenever any of the economic interests enumerated in Section 87103 will be affected in a reasonably foreseeable and material manner. For an effect of a decision

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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.

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to be reasonably foreseeable, it need not be a certainty; however, it must be more than a mere possibility. (See, Thorner Opinion, 1 FPPC Ops. 198, No. 75-089, copy enclosed.)

Whether a reasonably foreseeable effect of a decision will be material as to a particular economic interest will depend on the facts of a particular situation. The Commission has adopted guidelines for gauging materiality in varying factual contexts. (Regulations 18702, 18702.1 and 18702.2, copies enclosed.) Absent more detailed facts, we cannot apply the regulations to provide more specific guidance in this situation.

Before a decision's effect upon a particular economic interest will require disqualification, the effect must be distinguishable from the decision's effect upon a significant segment of the general public. (Regulation 18703, copy enclosed.) Again, absent more specific facts, we are unable to ascertain whether the effects of various decisions on the councilmembers' interests will be distinguishable from the effects upon the public generally.

In response to your request for general guidance, we can indicate that usually, where decisions involve the establishment of a redevelopment project area, owners of property and businesses in that area may be required to disqualify themselves. (See, Owen Opinion, 2 FPPC Ops. 77, No. 76-005; Brown Opinion 4 FPPC Ops. 19, No. 77-024; Oglesby Opinion, 1 FPPC Ops. 71, No. 75-083; Advice Letter to Ray Haight, No. A-81-509; and Advice Letters to John E. Brown, No. A-86-297, 297A; copies enclosed.) Given the multiple interests which some of the councilmembers have within the project area, it is likely that some disqualification will be required. (See Oglesby Opinion, supra, at pp. 80-81.) However, without more specific information regarding the project area and the city, we are unable to conclude that disqualification is required. (See, Oglesby Opinion, supra, at p. 78 and fn. 8.)

In response to the specific question which you have posed with respect to Councilmember Doris Morgan, she must disqualify herself from participating in any city or agency decisions regarding any contract bid by her employer to sell vehicles to either the city or the agency. (Regulation 18702.1(a)(1).) In addition, you may wish to consult with your city attorney or agency counsel regarding the possible application of Section 1090. That section is outside the Act, and consequently we can offer no opinion as to its applicability.

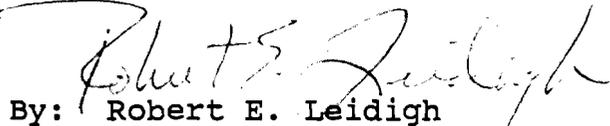
When more detailed information is available regarding the nature of the decisions which will arise regarding the redevelopment project and the downtown revitalization plan, the councilmembers may wish to contact this office again for

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further advice of a more specific nature. If you have any questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Counsel, Legal Division

DMG:REL:plh  
Enclosures



# CITY OF BLYTHE

220 NORTH SPRING STREET • BLYTHE, CALIFORNIA 92225 • (619) 922-6187

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Fair Political Practices Commission  
P.O. Box 807  
Sacramento, California 95804-0807

February 10, 1987

Gentlemen:

This letter is request formal written advice pursuant to Government Code Section 83114(b) for the following individuals:

Robert L. Means - Member of Council  
Thomas Farrage - Member of Council  
Warren Port - Member of Council  
William Martindale - Member of Council  
Doris Morgan - Member of Council

As City Manager of the City of Blythe, I am the authorized representative of the above individuals, and have been directed at a regularly scheduled City Council Meeting to seek formal written advice from the Commission on their behalf. Therefore the following information and facts are provided:

A. Robert L. Means, Member of Blythe City Council, 220 N. Spring St.  
Blythe, California 92225

Facts: Mr. Means is a realtor who conducts business within the City Limits of the City of Blythe, and within the boundaries of the Redevelopment Project Area. In addition, he owns property within the boundaries of the redevelopment project area, and additional property within the City Limits of the City of Blythe, that is not within the project area. The City Council serves as the Redevelopment Agency Board, and therefore Mr. Means serves as an Agency Board Member. The Specific advice requested is as follows:

1. As a realtor who has listings within the City limits and within the Redevelopment Project Boundaries, what issues, generally, would he be precluded from voting on?
2. The Redevelopment Agency is considering the adoption of a Downtown Revitalization Plan which will adopt development standards, an architectural theme, and signage standards in the Downtown Area. As an owner of property in the Project Area, would he be precluded from voting on this plan?
3. If as a realtor he has listings in the Project Area, would he be precluded from voting on the plan?

B. Thomas Farrage, Member of Blythe City Council, 220 N. Spring street, Blythe, California, 92225.

Facts: Mr. Farrage is an Insurance Agent, who owns a significant amount of property both within the City Limits of the City of Blythe, and within the boundaries of the Redevelopment Project Area. As a member of the City Council, he also serves as a member of the Redevelopment Agency Board. In addition, His wife is a real estate broker, who may have listings within the Blythe City Limits and within the Redevelopment Agency Project Boundaries, from time to time. The specific written advice is as follows:

1. Since Mr. Farrage owns property within the City Limits of Blythe and within the boundaries of the Redevelopment Project Area, what items, generally, will he be precluded from voting on.
2. Since he owns property within the Redevelopment Project Area, can he vote on the adoption of the Downtown Area Revitalization Plan outlined Above?
3. What items would he be precluded from voting on as a result of his wife's real estate business?

C. Warren Port, Member of the Blythe City Council, 220 N. Spring st., Blythe, California 92225.

Facts: Warren Port is a retired Optometrist, who owns property within the City Limits of the City of Blythe, and within the boundaries of the Redevelopment Project Area. He serves as a member of the Board of the Redevelopment Agency. The specific advice requested is as follows:

1. Due to the fact that Dr. Port owns property both within the City Limits of the City of Blythe, and within the boundaries of the Redevelopment Project Area, what items, generally, would he be precluded from voting on?
2. Due to the fact that Dr. Port owns property in the Redevelopment Project Area, would he be precluded from voting on the adoption of the Downtown Revitalization Plan referred to above?

D. William Martindale, Member of the Blythe City Council, 220 N. Spring Street, Blythe, California 92225.

Facts: Mr. Martindale is the owner of an Auto Parts Store located outside the Blythe City Limits. He owns no property in the City limits other than his home, and owns no property within the Redevelopment Project Area. His wife is a licensed real estate salesperson who conducts business within the City limits and who may have listings within the City limits and within the Redevelopment Project Boundaries. She works in Mr. Means real estate office. The Specific information requested is as follows:

1. If his wife has a listing within the Redevelopment Project Boundaries, would he be precluded from voting on the adoption of the Downtown Revitalization Plan as discussed above?
2. What items, generally, would he be precluded from voting on as a result of his wife's profession?

E. Doris Morgan, Member of Blythe City Council, 220 N. Spring street,  
Blythe, California 92225.

Facts: Doris Morgan is the office manager for an automobile dealership in the Blythe City Limits. She owns no part of the business and does not work on a commission basis. She and her husband own a wholesale dairy products distributing business located outside the Blythe City Limits. The business does deliver within the City Limits. She owns no property, other than her home within the City Limits, and no property in the Redevelopment Project Area. The specific information requested is as follows:

1. Is she precluded from voting on award of bids for automobile purchases for which the company she works for bids?
2. Would she be precluded from voting on any issues as a result of the business that her husband and she own and operate?

Your assistance in providing the above information is sincerely appreciated.

Sincerely,



Terry S. Matz  
City Manager



# California Fair Political Practices Commission

February 19, 1987

Terry S. Matz  
City Manager  
220 North Spring Street  
Blythe, CA 92225

Re: 87-056

Dear Mr. Matz:

Your letter requesting advice under the Political Reform Act was received on February 17, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

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

Diane M. Griffiths  
General Counsel

DMG:plh

cc: Robert L. Means  
Thomas Farrage  
Warren Port  
William Martindale  
Doris Morgan