



# California Fair Political Practices Commission

June 12, 1987

Thomas Haas  
City Attorney  
1000 Webster Street  
Fairfield, CA 94533

Re: Your Request for Advice  
Our File No. A-87-107

Dear Mr. Haas:

You have requested advice on behalf of Mayor Gary Falati regarding his duties under the conflict of interest provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTION

Is Mayor Falati prohibited from participating in a decision to rezone a portion of the redevelopment project area by virtue of the fact that his wife and aunt own real property interests in the area to be rezoned?

## CONCLUSION

Mayor Falati may not participate in the decision to rezone his wife's real property. His aunt's real property interest provides no basis for disqualification. This is because he has an indirect interest in real property owned by his wife; however, he has no interest in his aunt's real property.

## FACTS

In 1982 the City of Fairfield adopted a redevelopment plan for its city center project. The 811-acre project contains the city's central business district and extensive residential development of varying age and density. More than 2,400 residential units currently exist in the project area. The

---

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

distribution of planned land uses within the project area by type of use is:

<u>Land Use Category</u>	<u>Acreage</u>
Low Density Residential	168.6
Medium Density Residential	156.3
Retail/Office	34.7
Thoroughfare Commercial	32.7
Service Commercial	31.2
Highway Commercial	5.7
Office Commercial	23.9
Medium Density Residential/Office	35.8
Limited Industrial/Service Commercial/ Office Complex	66.0
Community Facilities	126.8
Open Space	10.2
Streets, Railroad, Drainage	<u>119.1</u>
Total	811

The Fairfield general plan was amended on July 6, 1982, to be made consistent with the redevelopment plan.

Because of the large number of properties involved and the large geographical area encompassed by the redevelopment plan, the rezonings to bring the zoning of the property into consistency with the general plan has proceeded in segments. In September 1985, 69 acres were rezoned. In June 1986, 40 or more acres were rezoned.

This request for advice concerns the third proposed rezoning within the project area. Approximately 83 acres of mainly residential property is proposed to be rezoned to RMT:2 (multiple residential) and RS-6 (single-family) zones. The rezonings to the RS-6 district will result in little change in density. The RMT:2 rezoning will permit less dense development on parcels currently zoned RM-1 and more density on parcels currently zoned RS-6.

The mayor's aunt owns a single-family home on one-third of an acre that is currently zoned RM-1 and is proposed to be rezoned to RMT:2. The new zoning would permit multi-family residential development and conditionally permit office uses on the property.

The mayor's wife owns a single-family residence at 600 Oregon Street. It is currently zoned RD (duplex residential). If rezoned, it would be RMT:2, which would allow multi-family residential development on the property.

There are approximately 60 single-family dwellings in the area to be rezoned. The remainder of the property is in multiple-family units or vacant.

#### ANALYSIS

Section 87100 prohibits any public official from making, participating in, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. An official has a financial interest in a decision 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 immediate family, or on:

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

#### Section 87103(b).

The term "indirect interest" includes any interest owned by the spouse or dependent child of a public official. (Section 87103.) Therefore, Mayor Falati may not participate in any decision which will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on his wife's real property interest. The real property interest owned by the mayor's aunt provides no basis for disqualification.

In the present situation, the effect of the rezoning decision on the mayor's economic interest will be distinguishable from the effect on the public generally. (Brown Opinion, 4 FPPC Ops. 19, 21 (No. 77-024, Feb. 7, 1978) copy enclosed.) Thus, the question becomes whether the effect of the decision on the mayor's interest will be material.

Regulation 18702.1 sets out certain special circumstances in which the effect of a decision will be considered material regardless of the dollar value of the effect. Among these, Regulation 18702.1(a)(3) provides that a public official shall not participate in a decision concerning the zoning or rezoning

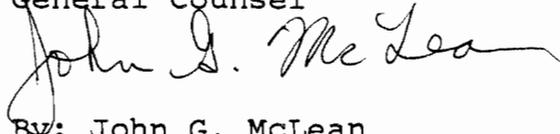
Thomas Haas  
June 12, 1987  
Page 4

of real property in which the official has a direct or indirect interest. Thus, Mayor Falati may not participate in the decision to rezone his wife's real property.

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

Sincerely,

Diane M. Griffiths  
General Counsel

A handwritten signature in cursive script that reads "John G. McLean". The signature is written in dark ink and is positioned above the typed name and title.

By: John G. McLean  
Counsel, Legal Division

JGM:km

# CITY OF FAIRFIELD

APR 6 3 40 PM '87

Incorporated December 12, 1963



1000 WEBSTER STREET  
FAIRFIELD, CA 94533

~~(707) 426-5500~~

(707) 428-7419

April 3, 1987

Mr. Robert Leidigh  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804

Dear Bob:

This letter is to request pursuant to 2 Cal.Admin. Code § 18329(c) informal assistance on the facts contained in this letter. The questions involve the participation of Fairfield Mayor Gary Falati, and he has authorized me to make this request.

In 1982 the City of Fairfield adopted a Redevelopment Plan for its City Center Project. The 811-acre project contains the city's central business district and extensive residential development of varying age and density. More than 2,400 residential units currently exist in the project area. The distribution of planned land uses within the project area by type of use is:

<u>Land Use Category</u>	<u>Acreage</u>
Low Density Residential	168.6
Medium Density Residential	156.3
Retail/Office	34.7
Thoroughfare Commercial	32.7
Service Commercial	31.2
Highway Commercial	5.7
Office Commercial	23.9
Medium Density Residential/Office	35.8
Limited Industrial/Service Commercial/ Office Complex	66.0
Community Facilities	126.8
Open Space	10.2
Streets, Railroad, Drainage	119.1
TOTAL	811

The Fairfield General Plan was amended on July 6, 1982, to be made consistent with the Redevelopment Plan.

Page Two  
Robert Leidigh

April 3, 1987  
Informal Assistance

Because of the large number of properties involved and the large geographical area encompassed by the Redevelopment Plan, the rezonings to bring the zoning of the property into consistency with the General Plan and Redevelopment Plan has proceeded in segments. In September 1985, 69 acres were rezoned. In June 1986, 40 more acres were rezoned.

This request for advice concerns the third proposed rezoning within the project area to achieve conformity. Approximately 83 acres of mainly residential property is proposed to be rezoned to the RMT:2 (multiple residential) and RS-6 (Single-family) zones. The rezonings to the RS-6 district will result in little change in density. The RMT:2 rezoning will permit less dense development on parcels currently zoned RM-1 and more density on parcels currently zoned RS-6.

Mayor Gary Falati has requested I seek the Fair Political Practices Commission staff's advice on his participation on the vote on this rezoning. The Mayor's aunt owns a single-family home at 343 Travis Boulevard on one-third of an acre that is currently zoned RM-1 and is proposed to be rezoned to RMT:2. The new zoning would permit multi-family residential development and conditionally permit office uses on the property.

The Mayor's wife owns a single-family residence at 600 Oregon Street. It is currently zoned RD (Duplex Residential). If rezoned, it would be RMT:2, which would allow multi-family residential development on the property.

There are approximately 60 single-family dwellings in the area to be rezoned. The remainder of the property is in multiple-family units or vacant.

If you desire more facts material to your consideration, please contact me.

Very truly yours,



Thomas Haas  
City Attorney

c: Mayor Gary Falati



# California Fair Political Practices Commission

April 9, 1987

Thomas Haas  
City Attorney  
1000 Webster Street  
Fairfield, CA 94533

Re: 87-107

Dear Mr. Haas:

Your letter requesting advice under the Political Reform Act was received on April 6, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John G. McLean, 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: Mayor Gary Falati