



California Fair Political Practices Commission

July 7, 1987

Eric Snyder
Chairman
West Long Beach Industrial Redevelopment
Project Area Committee
1559 West Esther Street
Long Beach, CA 90813

Re: Your Request for Advice
Our File No. I-87-155

Dear Mr. Snyder:

You have requested advice regarding the Commission's recent opinion in In re Rotman, 10 FPPC Ops. 1, No. 86-001 (copy enclosed). Your letter does not concern a specific governmental decision; therefore, we consider it to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{1/}

The Commission concluded in Rotman that members of redevelopment project area committees must disqualify themselves from participation in decisions of the project area committee only if the decision will have a reasonably foreseeable material financial effect on the member's economic interest which is distinguishable from the effect on members of the public within the redevelopment project area. You have expressed a concern that the opinion will render project area committees ineffective because of large scale disqualification of project area committee members who are residents, businesspersons, and property owners in the project area. The project area committee is mandated to include these types of people as members. (Health and Safety Code Section 33385.)

The Commission recognized this issue in its opinion stating:

We recognize that project area committees are required to include residents, businesses, and members of organizations in the project area, many of whom will have financial interests in the project area. It has been argued that application of the Act to these individuals will result in wholesale disqualification of project area committee members from various decisions of the project area committee.

^{1/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

However, disqualification is required only if it is reasonably foreseeable that a decision will have a material financial effect, distinguishable from its effect on the public generally, on the official's economic interest. (Section 87103.)

Regulation 18703 provides:

A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public.

The purpose of the project area committee is to provide input from residents, businesses, and members of organizations in the project area regarding issues which affect persons in the project area. (Health and Safety Code Sections 33865 and 33386.) It is not the role of project area committee members to represent the interests of individuals outside of the project area. Thus, the "public" with respect to a project area committee is those persons in the project area. Accordingly, members of project area committees are required to disqualify themselves from participating in decisions which will materially affect their economic interests only if the effect of the decision will be distinguishable from the effect on all other persons in the project area or on a significant segment of the persons in the project area. For example, if persons owning businesses in the project area constitute a significant segment of the persons in the project area, project area committee members who own businesses in the project area are disqualified from participation in decisions of the project area committee only if the decision will have a material financial effect on their business which is distinguishable from other businesses in the project area.

Rotman Opinion, supra, at pp.8-9. (Emphasis added.)

Thus, disqualification of a particular project area committee member from a particular decision is limited to situations in which that member's financial interests will be materially affected in a different manner, as described above.

It should be noted that similar criteria have applied for many years to industry and professional boards and commissions which by their nature often have members with financial interests

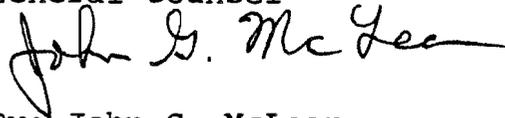
Eric Snyder
July 7, 1987
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in the regulated industry or profession. (See, Consumers Union of the United States v. California Milk Producers Advisory Board (1978) 82 Cal. App. 3d 433; 147 Cal. Rptr. 265, copy enclosed.)

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

Sincerely,

Diane M. Griffiths
General Counsel

A handwritten signature in black ink, appearing to read "John G. McLean". The signature is written in a cursive style with a long horizontal stroke at the end.

By: John G. McLean
Counsel, Legal Division

JGM:km
Enclosures

87-155

WEST LONG BEACH INDUSTRIAL REDEVELOPMENT PROJECT AREA COMMITTEE
1559 West Esther Street, Long Beach, CA 90813 — (213) 432-6754

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WESTSIDE

June 3, 1987

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California Fair Political
Practices Commission
428 J Street, Suite 800
Sacramento, CA 95804-0807

MEMBERS

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Nick Ortega, Vice-Chairman
Bea Ortega, Sec-Treasurer

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Trinidad Ramirez
Eric Snyder
J. Wesley Theisen
Adela Verdugo
Pangburn Wheaton

ALTERNATE MEMBERS

Frances Cavin
Kermit J. Sadler
S. Robert Caso, AICP
Planning Consultant
Peter L. Wallin
Legal Counsel
Kriya O'Keefe
Staff Secretary

Gentlemen:

This is to request your Honorable Commission to consider whether your recent opinion (No. 86-001) will have the practical effect of making it almost impossible for our, or similar Project Area Committees, to act effectively.

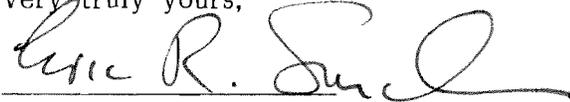
By definition, members of Project Area Committees have an inherent interest in Project activities. We do not know of the particular circumstances in the Hollywood case; but it appears that the 'cure' for that case may be 'poison' for our and similar PACs.

Your opinion states that 'wholesale disqualification' of members will not result from application of your opinion. On the contrary, we feel that it will do so, and be next to impossible to draw a clear line between 'individual' and 'public' benefit in Project areas, and will not be able to be administered in any reasonable manner.

By their very nature, project areas are selected so as to designate a geographic area that requires improvement to remove conditions of 'blight'. Residents, businesses, and property owners in such a designated area are expected to be able to serve on a properly constituted Project Area Committee to advise the local Redevelopment Agency.

In summary, how can our members avoid being deprived of their mandated role to act in matters that would generally and particularly affect their interests? Can you offer a solution to this quandary? We will appreciate your consideration of this issue at your earliest convenience.

Very truly yours,



Eric Snyder, Chairman
Westside PAC

cc: Long Beach Redevelopment Agency, Executive Director
Long Beach Downtown PAC, Chairman
Hollywood PAC, Chairman
Community Redevelopment Agency Association, Ex. Dir.
Mrs. Marian Bergeson, Newport Beach Assemblywoman
Peter Wallin, Westside PAC legal counsel



California Fair Political Practices Commission

June 10, 1987

Eric Snyder, Chairman
Westside PAC
1559 West Esther Street
Long Beach, CA 90813

Re: 87-155

Dear Mr. Snyder:

Your letter requesting advice under the Political Reform Act was received on June 9, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John 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 if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

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, appearing to read "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh

MOBAC

Monterey Bay Area Cooperative Library System
Library Building, Monterey Peninsula College
980 Fremont Blvd., Monterey, CA 93940 • (408) 646-4256
APR 21 8 51 AM '88

April 17, 1988

Jeanette Turvill
Legal Assistant, Legal Division
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95804-0807

RE: Conflict of Interest Code for the Monterey Bay Area
Cooperative Library System

Dear Ms Turvill:

On April 8, 1988 we discussed those individuals who will be designated persons within our Conflict of Interest Code. You suggested I write a letter of clarification in order to clarify the roles and responsibilities of the affiliated, non-public library members of the MOBAC Administrative Council.

The relationship between the public and non-public library members is as follows:

*GOVERNANCE- The cooperative library system is governed by a Joint Powers Agreement and the cooperative was established by a number of public libraries. On most budgetary matters only the public library members can vote; for example CLSA funded programs (State monies) budget matters affiliated, non-public library members of MOBAC **can not vote**. On the otherhand, non-public, affiliated members **may vote** on budget matters relating to LSCA funded (Federal monies) projects. The federally funded project are awarded on a competitive basis and we do not count on receiving these monies every year.

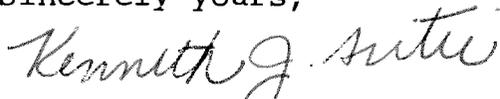
*PERSONNEL MATTERS-The non-public, affiliated library members participate in the selection, hiring, evaluation, and termination of the System Coordinator.

*AGREEMENT- Enclosed for your information is a copy of the agreement signed by the non-public, affiliated member of MOBAC.

I hope the information above has helped to clarify the roles and responsibilities of the non-public, affiliated members of MOBAC and I hope I can receive an opinion from you about their status as designated persons within our Conflict of Interest Code. I personally believe they can be removed as designated persons due to the present governance of the cooperative library system.

I plan to send the Notice of Intention to Adopt a Conflict of Interest Code for MOBAC no later than April 25, 1988. Thanks for all of your help with this matter and with the creation of our Conflict of Interest Code.

Sincerely yours,

A handwritten signature in cursive script that reads "Kenneth J. Sertic".

Kenneth J. Sertic
System Coordinator

Enclosure

file:b/turvill

Agreement Between _____
and
Monterey Bay Area Cooperative Library System (MOBAC)

MOBAC was established in 1989 as a public library cooperative system. Funding for MOBAC comes from a combination of federal, state, and local monies.

The public library members of MOBAC recognize the extensive resources available through other types of libraries in the MOBAC area. Regulations by the State regarding the use of state-provided funds limits participation of other types of libraries in some fiscal decisions. Because of these limitations, MOBAC has established the opportunity for associate member status for other types of libraries in the Monterey and Santa Cruz County area.

MOBAC creates for its public and associate members the framework for providing improved information and library services. Through this cooperative system, each member of MOBAC benefits from having access to the collections, personnel, and services of other member libraries. Member libraries can also access the resources of MOBAC's reference referral and interlibrary loan networks. Through these cooperative exchanges each member library can provide services and access to collections for its patrons beyond its own individual capabilities.

The _____ is an important resource in the MOBAC area. It would be valuable for MOBAC libraries to have access to its collection.

As an Associate Member _____ will have access to all MOBAC libraries.

BENEFITS OF MOBAC FOR ASSOCIATE MEMBERS

1. Associate Member libraries will have access to MOBAC's reference referral network. Associate Members will screen and refer reference questions from their patrons/students to MOBAC's reference center. Services offered through MOBAC's reference center may include access to:
 - multitype cooperative development
 - third-level reference services
 - California State Library
 - On-line Reference Sources
 - Member libraries, community agencies, and other outside sources

2. Associate Members may participate in system ILL program.
3. The Director of each Associate Member Library or an alternate designated by him/her participates in MOBAC's Administrative Council meetings. Votes involving expenditure of CLSA (state) funds are limited to public library members. Associate members may vote on all other matters.
4. Associate Member status permits mutual exchanges of ideas and provides additional opportunities for professional growth.

RESPONSIBILITIES OF ASSOCIATE MEMBERS

1. The Director of each Associate Member library will designate a staff person to serve as a liaison between MOBAC headquarters and the Associate library.
2. Associate Member libraries will extend borrowing privileges to MOBAC's reference staff.
3. Associate Member libraries will respond to ILL requests from MOBAC headquarters.
4. Associate Member's student/patrons have indirect access to other Associate Member's collections and services through MOBAC headquarters.
5. Associate Member libraries are encouraged to participate in MOBAC cooperative projects such as: union lists, workshops, directories.

WITHDRAWAL

This agreement may be terminated by either party by giving a 90-day written notice.

Accepted by:

Associate Member

Chair, Monterey Bay Area
Cooperative Library System
(MOBAC)

Date _____



California Fair Political Practices Commission

April 29, 1988

Kenneth J. Sertic
MOBAC
Library Building
Monterey Peninsula College
980 Fremont Blvd.
Monterey, CA 93940

Re: 87-155

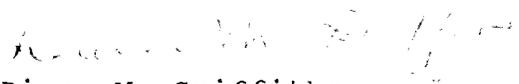
Dear Sertic:

Your letter requesting advice under the Political Reform Act was received on April 21, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeanette Turvill, 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 if your request seeks formal written advice. If more information is needed, we will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

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,


Diane M. Griffiths
General Counsel

DMG:plh