



California Fair Political Practices Commission

August 3, 1987

Honorable Gregory R. Cox
Mayor, City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010

Re: Your Request for Advice
Our File No. A-87-189

Dear Mayor Cox:

You have asked a follow-up question to a previous advice letter regarding your duties under the Political Reform Act^{1/} (No. A-87-128, copy enclosed). That letter is incorporated herein by reference.

QUESTION

If the loan you received from Home Federal Savings was received in the regular course of business on terms available to the public without regard to official status, are you prohibited from participating in decisions on development projects in which Home Federal's subsidiary, Home Capital Development Corporation, has an interest?

CONCLUSION

If the loan was received in the regular course of business on terms available to the public without regard to official status, you would not be required to disqualify yourself from decisions involving Home Federal Savings or its subsidiary, Home Capital Development Corporation.

^{1/} 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.

Honorable Gregory R. Cox
July 31, 1987
Page 2

FACTS

In 1985, you and Green Tree, Ltd., a limited partnership, received a \$2.2 million loan from Home Federal Savings, a San Diego commercial lending institution, to refinance an apartment complex in Austin, Texas. Home Capital Development Corporation, a subsidiary of Home Federal Savings, is involved in several development projects in Chula Vista.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence a governmental decision in which he knows, or has reason to know, he has a financial interest. A public 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:

(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.

(Section 87103(c), emphasis added.)

The term "income" includes outstanding loans. (Section 82030.) The loan which you and Green Tree received from Home Federal Savings and Loan is still outstanding. Thus, if the loan was received "in the regular course of business on terms available to the public without regard to official status," it will not be a basis for you to disqualify yourself from decisions involving Home Federal Savings or Home Capital Development Corporation. If the loan was not received in the regular course of business on terms available to the public without regard to official status, you are prohibited from participating in any decision which will have a reasonably foreseeable material financial effect on Home Federal or its subsidiary Home Capital Development Corporation. (Regulation 18706.) As indicated in our previous letter, we do not have sufficient facts to determine whether the loan was received in

Honorable Gregory R. Cox
July 31, 1987
Page 3

the regular course of business on terms available to the public
without regard to official status.

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

Sincerely,

John G. McLean
by Cms

John G. McLean
Counsel, Legal Division

JGM:jaj
Enclosures

Honorable Gregory R. Cox
July 31, 1987
Page 2

FACTS

In 1985, you and Green Tree, Ltd., a limited partnership, received a \$2.2 million loan from Home Federal Savings, a San Diego commercial lending institution, to refinance an apartment complex in Austin, Texas. Home Capital Development Corporation, a subsidiary of Home Federal Savings, is involved in several development projects in Chula Vista.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence a governmental decision in which he knows, or has reason to know, he has a financial interest. A public 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:

(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.

(Section 87103(c), emphasis added.)

The term "income" includes outstanding loans. (Section 82030.) The loan which you and Green Tree received from Home Federal Savings and Loan is still outstanding. Thus, if the loan was received "in the regular course of business on terms available to the public without regard to official status," it will not be a basis for you to disqualify yourself from decisions involving Home Federal Savings or Home Capital Development Corporation. If the loan was not received in the regular course of business on terms available to the public without regard to official status, you are prohibited from participating in any decision which will have a reasonably foreseeable material financial effect on Home Federal or its subsidiary Home Capital Development Corporation. (Regulation 18706.) As indicated in our previous letter, we do not have sufficient facts to determine whether the loan was received in

Honorable Gregory R. Cox
July 31, 1987
Page 3

the regular course of business on terms available to the public
without regard to official status.

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

Sincerely,

John G. McLean
by *DMW*
John G. McLean
Counsel, Legal Division

JGM:jaj
Enclosures

OFFICE OF THE MAYOR
GREGORY R. COX



F P P C
JUL 7 9 56 AM '87

June 30, 1987

Mr. John G. McLean
Legal Counsel
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Re: Request for Advice
Your File No. A-87-128

Dear Mr. McLean:

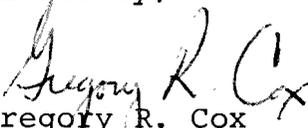
Thank you very much for the time and effort spent in connection with your advice letter to me, dated June 16, 1987. I must, however, ask you to clarify your advice provided in questions Nos. 1 and 3 in your letter.

Specifically, I must ask for further advice on the question of whether a conflict of interest exists under the set of facts. In rendering this advice, I ask that you acknowledge one fact initially presented to you but which was not stated in your recitation of the facts; that is, for the purposes of this additional advice, that the loan by Home Federal Savings and Loan Association was received in the regular course of business on terms available to the public without regard to my official status.

I would appreciate it if you would provide me with advice regarding the following question: Given the facts as stated in your letter of June 16, 1987, and assuming the fact that the loan was received in the regular course of business on terms available to the public without regard to my official status, am I prohibited from participating in decisions on development projects in which Home Capital Development Corporation has interest? Since I might be faced with such decisions in the near future, I ask that you provide such advice at your earliest convenience.

Again, thank you for your efforts in this matter.

Sincerely,


Gregory R. Cox
Mayor, City of Chula Vista