



California Fair Political Practices Commission

June 20, 1988

Stuart Scudder
Interim City Attorney
City of Garden Grove
11391 Acadia Parkway
PO Box 3070
Garden Grove, CA 92642

Re: Your Request for Advice
Our File No. A-88-181

Dear Mr. Scudder:

This is in response to your request for advice regarding the responsibilities of Mayor J. Tilman Williams under the conflict-of-interest provisions of the Political Reform Act. ^{1/}

QUESTION

Mayor Williams owns a real estate and insurance brokerage business and various parcels of real property located about one mile from the Haster Sungrove project in the Harbor Corridor redevelopment area. Can Mayor Williams participate in decisions regarding the Haster Sungrove project in light of these economic interests?

CONCLUSION

Decisions regarding the Haster Sungrove project will not have a foreseeable material financial effect on the mayor's economic interests. Thus, Mayor Williams may participate in the decisions regarding the Haster Sungrove project.

FACTS

J. Tilman Williams is the elected mayor of the City of Garden Grove. The city council, including the mayor, sits as the redevelopment agency. The redevelopment agency is

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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presently considering the Haster Sungrove project, located on Garden Grove Boulevard, at the eastern most point of the project area. The project will recycle a five-acre section of the Harbor Corridor redevelopment project area from mixed commercial uses to a motel-restaurant development.

The 1987-88 assessed valuation of Haster Sungrove is just under \$2 million. The assessed valuation of the completed project could be in excess of \$9 million. However, the Haster Sungrove project is not expected to have a major positive effect project-wide.

Mayor Williams owns real property located within and near the Harbor Corridor area. Each parcel is approximately one mile from the Haster Sungrove project:

Within Redevelopment Area

| | <u>Value</u> | <u>Approx. Distance from Project</u> |
|--|--------------|--|
| 12291 Harbor Boulevard (Mayor's brokerage business) | \$240,000 | 1 mile |
| 12311 Harbor Boulevard | \$240,000 | 1 mile |
| 11942- 52 Garden Grove Blvd. | \$720,000 | 4/5 miles |

Outside Redevelopment Area

| | | |
|----------------------|-----------|-------------|
| 12292 Thackery Drive | \$115,000 | 1 mile |
| 12312 Thackery Drive | \$130,000 | 1 mile |
| 11241 Chapman Avenue | \$360,000 | 1-1/2 miles |

Mayor Williams' real estate and insurance brokerage business is located in the redevelopment area, at the property owned by the mayor on Harbor Boulevard. The real estate firm has not sold property, and has no real estate listings pending in or near the Haster Grove project site. Mayor Williams is not aware of any clients of his insurance brokerage firm who have real property or business interests located in or near the Haster Grove project site.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or in any way attempting to use his or her

official position to influence a governmental decision in which the official 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 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(a)-(d).

Mayor Williams owns numerous parcels of real property. (Section 87103(b).) The tenants currently renting or leasing the mayor's properties are sources of income to him. (Section 82030(a).) He also has a business investment interest in his real estate and insurance brokerage business, and his company is a source of income to him. (Section 87103(a), (c) and (d).) Because the mayor is the sole owner of the real estate and insurance brokerage business, the clients of the firm who have paid at least \$250 in gross commission income are also sources of income to him. (Section 82030(a).) Thus, Mayor Williams may not participate in a decision which will have a reasonably foreseeable material financial effect on his real property interests, on his tenants, on his business, or on clients of the business who have paid at least \$250 in gross commission income.

The effect of a decision is reasonably foreseeable if there is a substantial likelihood that it will occur. Certainty is not required; however, if the effect is a mere possibility it

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is not reasonably foreseeable. (In re Thorner (1975) 1 FPPC Ops. 198, copy enclosed.)

The possible effects of the decisions regarding the Haster Sungrove project are an increase in business to the mayor's firm, an increase in the fair market value of his real property interests, or a similar effect on the economic interests of his tenants, or clients of the firm.

Mayor Williams is unaware of any clients of the firm who have economic interests which could be affected by the decisions regarding Haster Sungrove. Moreover, the mayor has indicated that his real estate firm has been involved with no real property sales, and currently has no sales pending, in or near the project site. Since the mayor has no clients, has not done business and is not anticipating doing business in the general area of Haster Sungrove, it is not reasonably foreseeable that decisions regarding the project will affect the business or its clients.

Mayor Williams owns a number of parcels of real property, each approximately one mile from the Haster Grove project site. You have noted that although completion of the project would have a dramatic effect on the assessed value of the property located at the project site, it is not anticipated that the project will have a major positive affect in the redevelopment area as a whole. Unlike adoption or amendment of a redevelopment project area, which triggers numerous unique legal and financial benefits for all real property located within its boundaries, decisions regarding specific projects may or may not affect other real property interests within the redevelopment area. (See Downey Cares v. Downey Community Development Commission (1987) 196 Cal. App.3d 983.) We conclude, as well, that a distance of one mile from the project site is too remote to create a substantial likelihood that the fair market value of the mayor's properties will be affected as a consequence of the project decisions. (See Advice Letters to Lyders, No. A-82-158, and Mering, No. A-84-325, copies enclosed.)^{2/}

Finally, we must analyze whether the mayor's tenants will be materially affected by the decisions regarding the proposed

^{2/} As you are probably aware, the Commission has noticed proposed changes in its materiality regulations which, if adopted, would clarify this point. Enclosed is a copy of those proposed regulations. See, specifically proposed Regulation 18702.3.

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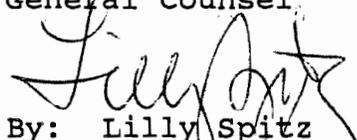
project. In order to require disqualification, it must be foreseeable that decisions regarding the project will have a material financial effect on the businesses or individuals leasing property from the mayor. Once again, the distance between the project site and the mayor's properties is so great that, absent special circumstances,^{3/} it is unlikely that the decisions regarding the redevelopment project will have a financial effect on the tenants at those locations. (See Advice Letters to Roberts, No. A-86-161, and Mering, supra, copies enclosed.)

Since it is not foreseeable that Mayor Williams' economic interests will be affected by the decisions regarding Haster Sungrove, he is not prohibited from participating in those decisions.

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

Sincerely,

Diane M. Griffiths
General Counsel



By: Lilly Spitz
Counsel, Legal Division

DMG:LS:plh

Enclosure

^{3/} If, for example, the mayor's property was being used for a motel or major restaurant of the type contemplated for the project, the anticipated competition from the new development could foreseeably have a material financial effect on the mayor's tenants despite the distance involved.



California Fair Political Practices Commission

May 19, 1988

Stuart Scudder
City of Garden Grove
11391 Acacia Parkway
P. O. Box 3070
Garden Grove, CA 92642

Re: 88-181

Dear Mr. Scudder:

Your letter requesting advice under the Political Reform Act was received on May 18, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, 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. 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



CITY OF GARDEN GROVE, CALIFORNIA

11391 ACACIA PARKWAY, P.O. BOX 3070, GARDEN GROVE, CALIFORNIA 92642

OFFICE OF THE CITY ATTORNEY
(714) 638-6881

April 27, 1988

Barbara Millman
Legal Counsel
Fair Political Practices Commission
428 "J" Street
Sacramento, California 95874

Re: **Request for Advice Letter re
Financial Conflict of Interest**

Dear Ms. Millman:

The City, sitting as the City redevelopment agency, has requested that we obtain an advice letter regarding the qualification of the Mayor to vote on acquisition and disposition of property in a particular redevelopment project area. The following will give you a background of the facts in the situation.

BACKGROUND

Mayor Williams of Garden Grove, a general law city, votes as a member of the City Council, chairs its meetings, and votes as a member of the redevelopment agency. The Mayor owns "legal non-conforming" commercial property in two areas of the City. Three of the legal non-conforming parcels are in a redevelopment project area--the Harbor Corridor area. From time to time, redevelopment projects are designated and implemented in the project area. At present, the "Haster Sungrove" project is in issue, and the subject of this advice request.

"Haster Sungrove" is a project with the goal of recycling a five acre area from mixed commercial uses into a motel-restaurant development. The parcels are freeway off-ramp adjacent and ideal for the proposed development. The present uses include a service station, an animal hospital, a vacant auto repair facility, a night club, and a vacant parcel.

The 1987-88 assessed valuation of Haster Sungrove is \$1,818,739. The assessed valuation of the completed project could be \$9,300,000, if all of the parcels are acquired. The total assessed valuation for the entire Harbor Corridor redevelopment project area is \$132,104,200. The "Haster Sungrove" project is in the Southeast corner of the redevelopment project area and is not expected to have a major positive affect project-wide.

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Re: **Request for Advice Letter re
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The area in question is bisected by Harbor Boulevard, which is next to Disneyland. Disneyland is approximately 2 1/2 miles north of Mr. Williams' property on Harbor Boulevard. The entire area is heavily urbanized with tourist commercial uses and shopping centers.

The Mayor also has a general insurance agency and real estate brokerage business located in the redevelopment area. Mayor Williams' business is one of 75 insurance brokerage businesses located in the City of Garden Grove. In addition to his daughter who manages the insurance business, he reports that he has three employees. A copy of Mayor Williams' Statement of Economic Interests is attached.

The Mayor's real property as reported on his Statement of Economic Interest is as follows (the distance measurements are along connecting streets):

In Redevelopment Project Area

| | <u>Value</u> | <u>Approximate Distance from Project</u> |
|--|--------------|--|
| 12291 Harbor Boulevard (brokerage business) | \$240,000 | 1 mile |
| 12311 Harbor Boulevard | \$240,000 | 1 mile |

Outside Project Area

| | <u>Value</u> | <u>Approximate Distance from Project</u> |
|-----------------------------|--------------|--|
| 12292 Thackery Drive | \$115,000 | 1 mile |
| 12312 Thackery Drive | \$130,000 | 1 mile |
| 11942-52 Garden Grove Blvd. | \$720,000 | 4/5 miles |
| 11241 Chapman | \$360,000 | 1 1/2 miles |

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QUESTION

May Mayor Williams participate in and vote on the "Haster Sungrove" issues--in particular, acquisition and disposition of real estate and funding decisions?

Very truly yours,



STUART SCUDDER
Interim City Attorney

SS/pw

Attachment (1): Map of City with addresses indicated

Attachment (2): Map of Redevelopment Project Area

Attachment (3): Copy of Mayor Williams' Statement of Economic Interests