

California Fair Political Practices Commission

John H. Larson
Chairman



(916) 322-5901

June 6, 1988

Michael B. Montgomery
Redevelopment Agency Counsel
City of Huntington Park
c/o 215 North Marengo Avenue
Second Floor
Pasadena, California 91101

Re: Your Request for Advice
Our File No. I-88-192

Dear Commissioner Montgomery:

You have written on behalf of Huntington Park Redevelopment Agency Board Member Jim Roberts. You have requested that we provide informal assistance with regard to possible issues raised under the Political Reform Act (the "Act"). 1/

QUESTION

May a redevelopment agency board member become employed by a developer who does business in the redevelopment agency area where the employment will relate to projects in other jurisdictions?

CONCLUSION

The Act does not prohibit public officials from engaging in private employment. The Act does prohibit public officials from making, participating in, or using their official positions to influence, governmental decisions affecting a

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. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

private source of income. If the developer has future business with the redevelopment agency, disqualification would likely be required.^{2/}

FACTS

You are counsel for the Huntington Park redevelopment agency. In that capacity, you have sought our assistance in responding to a question posed by one of your clients. Mr. Jim Roberts is a councilmember and redevelopment agency board member in the City of Huntington Park.

Mr. Roberts is considering possible employment with a developer who has in the past done work in the redevelopment agency project area. The developer currently has a disposition and development agreement with the redevelopment agency, which was entered into by the agency director. Mr. Roberts had no involvement in that agreement as an agency board member and has no knowledge of the details of the agreement.

The developer wishes to undertake redevelopment agency assisted shopping center projects in other communities, outside Huntington Park. Mr. Roberts is considering going to work for the developer on a commission basis for the purpose of seeking development opportunities in these other jurisdictions. However, in the future, the developer may have other dealings with either the City of Huntington Park or its redevelopment agency.

ANALYSIS

The Act prohibits a 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. (Section 87100.) Mr. Roberts is a public official in both his capacity as a councilmember and as a redevelopment agency board member. (Section 82048.)

A public official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on the official, a member of the official's immediate family, or on:

^{2/} If the developer would be entering into a contract with either the city or the redevelopment agency, the provisions of Government Code Section 1090 should be considered.

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. . . (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

Consequently, if Mr. Roberts receives or is promised \$250 in income by the developer, he will be required to disqualify himself for a period of one year from any participation in a governmental decision affecting the developer. This would include any direct dealings with the developer by either the city or the redevelopment agency. (Regulation 18702.1.)

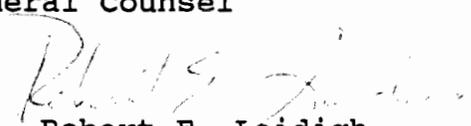
However, the Act does not restrict Mr. Roberts private economic activities. The Act only affects his role in his official capacity with the city and the redevelopment agency. Consequently, the Act would not prohibit Mr. Roberts from undertaking such employment. As a caveat, you and Mr. Roberts may wish to consider the possible implications of his situation under Government Code Section 1090, et seq. As you are aware, the Commission does not have jurisdiction with regard to that section and does not provide advice with respect to it.

In addition to the foregoing, Mr. Roberts should remember that if disqualification is required, it applies to using his official position to influence a governmental decision as well as to direct involvement. Therefore, he could not contact city or redevelopment agency staff relative to a decision involving the developer once the developer is a source of income to him.

I trust that this letter responds to the question you have posed. Should you or Mr. Roberts have questions about 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:ld:88192

LAW OFFICES
MICHAEL B. MONTGOMERY
A LAW CORPORATION

MAY 21 1 15 PM '88

215 NORTH MARENGO AVENUE
SECOND FLOOR
PASADENA, CALIFORNIA 91101
TELEPHONE (818) 405-9191

May 18, 1988

ALSO ADMITTED TO FLORIDA
AND HAWAII STATE BARS

Diane Griffiths
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95814

Dear Diane:

Enclosed please find a letter from one of my Councilmen/Redevelopment Agency Members in Huntington Park. The facts behind the request are as follows:

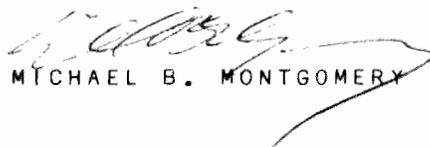
1. The Councilmember is quite involved politically and is currently president of the Independent Cities Association; his contacts and friendships are many.

2. There is a local major real estate developer in Huntington Park who wishes to branch out to other cities/redevelopment agencies and do agency assisted shopping centers, etc.

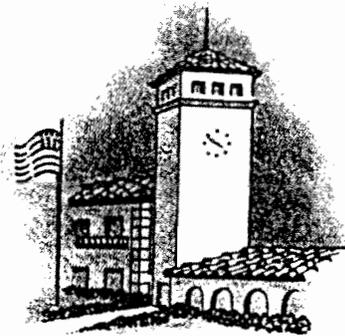
3. The Councilman would go to work on a commission basis for the developer seeking development opportunities in cities other than Huntington Park.

I see nothing wrong with this situation legally, so long as the council member abstains from any deliberations, staff contacts, or voting with respect to any interests of the developer within the City of Huntington Park or its redevelopment agency. However, because of my position as a Commissioner, I wish to have back-up for obvious reasons since I am compensated by the Board upon which the requesting member sits. Either a new advice letter or reference to existing advice letters requested.

Very truly yours,


MICHAEL B. MONTGOMERY

MBM/jl
Enclosure
cc: Councilman Roberts



City of
HUNTINGTON PARK california

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MEMBERS OF CITY COUNCIL

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WILLIAM P. CUNNINGHAM

April 19, 1988

Michael Montgomery
215 N. Marengo Avenue
2nd Floor
Pasadena, CA 91101

Dear Mike:

I request a ruling from the Agency Attorney regarding my employment by a developer that has done business in the City of Huntington Park. I have not accepted nor discussed any financial arrangements at this time and before I do, I need to know if it is legal to do so.

The developer currently has one DDA given to him by the Director, but no action has been taken by the Agency and I am not aware of the details of the DDA. What would be my status?

Sincerely,

A handwritten signature in cursive script that reads "Jim Roberts".

Jim Roberts
Councilman

JR:jw

RECEIVED APR 21 1988