



California Fair Political Practices Commission

July 22, 1988

Ralphena R. Guest
City Clerk
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

Re: Your Request For Advice
Our File No. I-88-224

Dear Ms. Guest:

You have requested advice on behalf of a recent appointee to the Half Moon Bay Planning Commission about application of the Political Reform Act (the "Act")^{1/} to his activities after he leaves office. Because you have not sought advice concerning a specific pending matter, in this letter we will provide you with informal assistance.^{2/} (See Regulation 18329(c)(4), copy enclosed.)

QUESTION

Does the Act restrict a planning commissioner's ability after he leaves office to work for persons who have appeared or will appear before the planning commission?

^{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.

^{2/} 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).)

CONCLUSION

Sections 87401 and 87402 restrict the activities of former state administrative officers. These sections do not apply to local officials. Therefore, the Act does not restrict the employment of a planning commissioner after he leaves public office.

There may be other statutes or ordinances that restrict a local public official's employment after he or she leaves office. The Commission, however, does not administer those statutes or ordinances. Therefore, we refer you to the city attorney for more advice about other laws concerning this issue.

FACTS

A recent appointee to the planning commission owns a real estate funding company that provides financial services for procuring and developing real estate.^{3/} After his term on the planning commission ends, persons who appeared before or are planning to appear before the planning commission may contract for his services.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to influence a governmental decision in which an official knows or has reason to know he has a financial interest. A planning commissioner is a public official subject to the disclosure and disqualification provisions of the Act. (Sections 82048 and 87200.)

Nevertheless, currently there is no statute restricting the activities of local public officials after they leave office or their government employment ends. Sections 87401 and 87402 restrict the activities of former state administrative officers. Therefore, Sections 87401 and 87402 do not apply to a planning commissioner. After his term of office ends, the planning commissioner would not be prohibited by the Act from working for a person who had appeared before or who was to appear before the planning commission.

^{3/} In a telephone conversation on July 6, 1988, you informed us that the applicant had been appointed to the planning commission on July 5, 1988.

Ralphena R. Guest

July 22, 1988

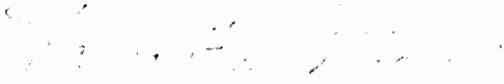
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The planning commissioner, however, also should be aware that he may not participate in a governmental decision concerning a source of income that has promised to pay the public official \$250 or more. For example, if while serving on the planning commission, the planning commissioner accepts an offer to work for a private company for \$250 or more after he leaves the planning commission, that company is a source of income. Consequently, the planning commissioner would be disqualified from participating in a decision that would have a foreseeable and material financial effect on the company. (Section 87103(c).)

I hope we have answered your advice request satisfactorily. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel


By: Margarita Altamirano
Counsel, Legal Division

DMG:MA:aa

Enclosure



City of Half Moon Bay

CITY HALL • 501 MAIN STREET
HALF MOON BAY, CALIFORNIA 94019

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FROM THE OFFICE OF
City Clerk

TELEPHONE (415) 726-5566

June 14, 1988

Technical Assistance Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Sirs/Ladies:

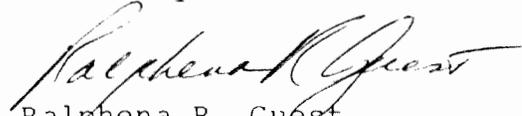
An applicant for Planning Commission has asked that I investigate the following question:

Applicant has his own real estate funding company, providing financial services for the various activities having to do with real estate procurement/development. He has asked if there is a time period (and if so, what) after termination of his term/s on the Planning Commission when he may not either contract with or represent an applicant:

- a) whose project was before him as a Planning Commissioner; or
- b) whose project will come before the Commission during his involvement with same; or
- c) any other applicable prohibition subsequent to his term.

Thank you for your attention to this question. If there is a Code section (such as GC 87401, 87402, etc.) to which you might direct me, I would appreciate a telephone call.

Sincerely,


Ralphena R. Guest
City Clerk