



California Fair Political Practices Commission

January 4, 1990

Nancy A. Dillon
City of Thousand Oaks
2150 West Hillcrest Drive
Thousand Oaks, CA 91320

Re: Your Request for Informal
Assistance
Our No. I-89-507

Dear Ms. Dillon:

You have requested advice regarding the duties of various citizen committees under the conflict of interest provisions of the Political Reform Act (the "Act").^{1/}

Your letter states a general question regarding the impact of the Act on citizen committees. Therefore, we consider it to be a request for informal assistance.^{2/}

QUESTION

The conflict of interest code for the City of Thousand Oaks presently designates its project are advisory committee and other citizen committees and commissions. The committees and commissions present information and recommendations to the city council but do not make decisions. You are asking for assistance in determining if these committees should be covered by the code.

^{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

The Fair Political Practices Commission has already determined that members of the project area advisory committee are public officials required to be covered by a code. If the other committees and commissions within your city make or participate in the making of governmental decisions as described below, then they, too, would appropriately be included in your code.

ANALYSIS

The Political Reform Act requires every agency adopt and promulgate a conflict of interest code (Section 87300). A conflict of interest code is a document which designates the positions within the agency which make or participate in the making of decisions which may foreseeably have a material effect on any financial interest and further sets forth the types of investments, business positions, income and real property made reportable by those designated employees (Section 87302).

The term "designated employee" excludes "...any unsalaried member of any board of commission which serves a solely advisory function." (Section 82019, emphasis added.)

Regulation 18700 provides guidance in determining whether a board or commission is "solely advisory" or has decision-making authority.

(a) "Public official at any level of state or local government" means every natural person who is a member, officer, employee or consultant of a state or local government agency.

(1) "Member" shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision-making authority. A board or commission possesses decision-making authority whenever:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

(C) It makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

January 2, 1990
Page Three

In May of 1987, the Commission considered and approved In re Rotman Opinion (1987) 10 FPPC Ops. 1 (copy enclosed) which concluded that the members of a project area committee created under Community Redevelopment Law of the State of California (Health & Safety Code Section 33000 et seq. are subject to the conflict of interest provisions of the Political Reform Act. (This opinion reversed the Commission's earlier opinion in In re Bonfa (1976) 2 FPPC Ops. 146, which held that members of project area committees were not "public officials" under the Act.)

The change occurred as a result of amendments to the Community Redevelopment Law. Prior to the amendments, a legislative body was free to adopt some, all, or none of the project area committees' recommendations regarding the redevelopment plan. Under current law, if a project area committee recommends against approval of a redevelopment plan, or proposed amendments, the plan can only be approved by a two-thirds vote of the legislative body.

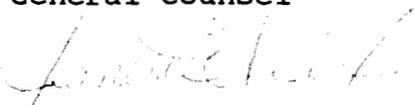
As a result of this statutory change, the Commission concluded that individuals who sit on a project area committee are "members" of a local government agency and have decisionmaking authority within the meaning of the Political Reform Act.

Since I have no knowledge as to the duties and functions of the other citizen committees or commissions, I am unable to give you direct assistance. I have however enclosed previously issued advice letters addressing various types of citizens committees. Maybe these can provide you with the assistance you need. If not, please feel free to write us with more specifics pertaining to the balance of the committees.

If you have any questions, or need further assistance, please feel free to contact me at (916) 322-5901.

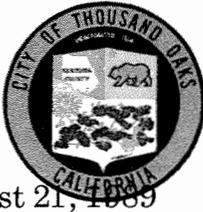
Sincerely,

Kathryn E. Donovan
General Counsel



By: Jeanette E. Turvill
Political Reform Consultant
Legal Division

KED/jt
Enclosures



August 21, 1989

City of Thousand Oaks

Nancy A. Dillon, CMC
City Clerk

AUG 21 2 55 PM '89
FPPPC

Fair Political Practices Commission
Legal/Technical Assistance Division
428 J Street, Suite 800
Sacramento, CA 95814

The Thousand Oaks City Clerk Department has received several recent inquiries by citizen committee members requesting specific reasons for filing conflict of interest statements.

Several years ago the City Attorney determined that certain citizen committees be required to file annual statements. The City's resolution is enclosed for your information and review.

The Project Area Advisory Committee (Redevelopment Agency committee) has citizen members most of whom own businesses or reside within the redevelopment project area. The committee presents information and recommendations to the City Council but do not have final authority on any issue brought before the committee.

Other committees and commissions listed in our Conflict of Interest Code with the exception of the Planning Commission and possibly the Franchise Advisory Board do not make decisions but provide recommendations to the City Council for their action.

I would appreciate your recommendations in writing as soon as possible. The City has experienced problems in recruiting citizen members for a variety of committees due to the filing requirements.

Thank you for your assistance.

Sincerely,

Nancy A. Dillon
City Clerk

RESOLUTION NO. 89-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF THOUSAND OAKS UPDATING THE DESIGNATED
EMPLOYEE LIST FOR FAIR POLITICAL PRACTICE
ACT DISCLOSURE REQUIREMENTS AND REPEALING
RESOLUTION NO. 89-37

WHEREAS, the Political Reform Act, Government Code Section 1000, et seq. requires every state or local government agency to adopt and promulgate a conflict of Interest Code; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Admin. code Section 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which will be amended to conform to amendments in the Political Reform Act after public notice and hearing conducted by the Fair Political Practices Commission pursuant to the Administrative Procedure Act, Government Code Section 22390, et seq; and

WHEREAS, the City Council has previously designated employees, officers and disclosure categories in Resolution No. 89-37 which now needs to be revised and the Council has determined that the attached Appendices accurately set forth those updated positions which should be designated and categories of financial interests which should be made reportable;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS, THAT:

1. The Council Resolution No. 89-37 is hereby rescinded and superseded by this resolution. The terms of 2 Cal. Admin. Code Section 18730 and any Commission, along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Codes of the following departments, agencies and designated contract employees:

A. DEPARTMENTS

City Manager/Administration

City Attorney

City Clerk

Building and Safety

Finance

Library

Planning and Community Development

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
CITY OF THOUSAND OAKS)

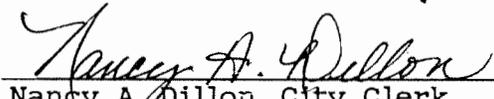
I, NANCY A. DILLON, City Clerk of the City of Thousand Oaks, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 89-64 which was duly and regularly passed and adopted by said City Council at a regular meeting held March 28, 1989, by the following vote:

AYES: Councilmembers Lamb, Laxdal, Schillo, Fiore
and Mayor Horner

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Thousand Oaks, California.



Nancy A. Dillon, City Clerk
City of Thousand Oaks, California

APPENDIX "A"

Disclosure
Category *

1. EMPLOYEES

A. City Manager/Administration

| | | |
|----|----------------------------------|----------|
| 1. | City Manager | Form 721 |
| 2. | Assistant City Manager | 1 |
| 3. | Senior Management Analyst | 1 |
| 4. | Human Resources Manager | 6 |
| 5. | Personnel Analyst | 6 |
| 6. | Economic Development Coordinator | 1 |
| 7. | Capital Programs Manager | 1 |
| 8. | Administrative Services Manager | 1 |
| 9. | Community Services Manager | 1 |

B. City Attorney

| | | |
|----|-------------------------|----------|
| 1. | City Attorney | Form 721 |
| 2. | Assistant City Attorney | 1 |
| 3. | Deputy City Attorney | 1 |

C. City Clerk

| | | |
|----|-------------------|-------|
| 1. | City Clerk | 1 & 5 |
| 2. | Deputy City Clerk | 5 |

D. Building and Safety

| | | |
|----|---|----|
| 1. | Director of Building and Safety | 1 |
| 2. | Deputy Director of Building and Safety | 1 |
| 3. | Principal Engineer | 1 |
| 4. | Professional Civil Engineer | 10 |
| 5. | Senior Building Inspector | 1 |
| 6. | Combination Building Inspector | 1 |
| 7. | Building Inspector Supervisor | 1 |
| 8. | Plan Checker/Combination Building Inspector | 1 |

E. Finance

| | | |
|----|------------------------------------|---|
| 1. | Director of Finance/City Treasurer | 3 |
| 2. | Deputy Finance Director | 3 |
| 3. | Data Processing Manager | 4 |
| 4. | General Services Manager | 7 |
| 5. | Management Assistant/Buyer | 7 |
| 6. | Purchasing Technician | 7 |
| 7. | Building Maintenance Supervisor | 2 |

Appendix "B"

GENERAL PROVISIONS

A designated employee is not required to disclose that he/she is a director, officer, partner, trustee, employee or holds any position of management in a business entity. However, a designated employee who holds such a position is still subject to the disqualification provision of this code with respect to such position.

CATEGORY 1

Any investment, interest in real property or income, as defined in this Code.

CATEGORY 2

Any investment in, or income from, as defined in this Code, any person or business entity which provides cleaning and building maintenance services, supplies, materials or equipment.

CATEGORY 3

Any investment in, or income from, as defined in this Code, any person or business entity in which monies of the City are authorized to be deposited, invested, or otherwise placed.

CATEGORY 4

Any investment in, or income from, as defined in this Code, any person or business entity which provides services, goods, or equipment involving data processing software or hardware.

CATEGORY 5

Any investment in, or income from, as defined in this Code, any person or business entity which provides services, goods or equipment involving municipal elections.

CATEGORY 6

Any investment in, or income from, as defined in this Code, any person or business entity, which provides personnel recruitment, testing, selection, or placement services, goods or equipment.

CATEGORY 7

Any investment in, or income from, as defined in this Code, any person or business entity which deals in goods, equipment or services, of the type or kind purchased or disposed of as surplus property by the City.



California Fair Political Practices Commission

August 28, 1989

Nancy A. Dillon
City Clerk
2150 West Hillcrest Drive
Thousand Oaks, CA 91320

Re: Letter No. 89-507

Dear Ms. Dillon:

Your letter requesting advice under the Political Reform Act was received on August 24, 1989 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,

Kathryn E. Donovan
General Counsel

KED:plh