



FAIR POLITICAL PRACTICES COMMISSION

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March 8, 2011

Bruce Burrows
6 Southpoint Road
Orinda, CA 94563

**Re: Your Request for Informal Assistance
Our File No. I-11-034**

Dear Mr. Burrows:

This letter responds to your request for advice regarding the Political Reform Act (the "Act").¹ Because your questions are general in nature, we are treating your request as one for informal assistance.²

Please note also that our advice is based solely on the provisions of the Act. We offer no opinion on the application, if any, of provisions outside of the Act such as Government Code section 1090 or common law conflict of interest.

QUESTION

Do you have a conflict of interest under the Act if you represent clients in acquiring commercial real estate in downtown Orinda after having served on the Orinda Planning Process

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114, Regulation 18329(c)(3).)

Review Task Force, and the Orinda Downtown Revitalization Subcommittee of the Task Force through August 2009?

CONCLUSION

The Act does not prohibit you from representing clients who wish to acquire commercial real estate in downtown Orinda.

FACTS

You are a resident of Orinda and California and in October 2007 were appointed to the Orinda Planning Process Review Task Force, and as co-chair of the Orinda Downtown Revitalization Subcommittee of the Task Force. The Task Force submitted a final report to the city council and was dissolved in August 2009. However, some of the recommendations of the Task Force are still working through the city process. You have been contacted by clients who are interesting in acquiring commercial real estate in downtown Orinda for the purpose of redeveloping or developing new projects.

ANALYSIS

There are two provisions of the Act that potentially could apply to your facts.

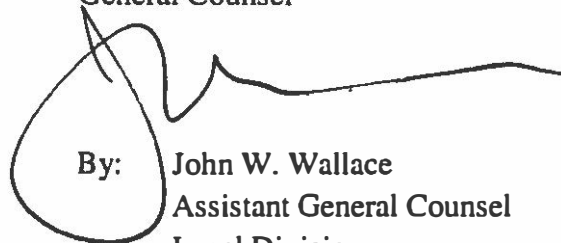
Conflict of Interest Law (Section 87100 et seq.): Section 87100 of the Act prohibits a public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. In order to determine whether the prohibition in Section 87100 applies to a given decision, Regulation 18700 provides an eight-step analysis, the first step of which asks whether the individual is a public official, within the meaning of the Act. (See Section 82048; Regulation 18701.) If the individual is not a public official, he or she does not have a conflict of interest within the meaning of the Political Reform Act. In your case you are not a current public official, therefore Section 87100 et seq. is not applicable to you.

Revolving Door (Section 87406.3): Local government officials who leave governmental service are subject to the Act's one-year ban for local officials in Section 87406.3, also known as the "local one-year ban." Generally, this restriction prohibits certain former local officials from communicating with their former agencies, for compensation and in representation of another person, for the purpose of influencing any legislative or administrative actions, including quasi-legislative and quasi-judicial actions, or any discretionary actions involving the issuance, amendment, awarding, or revocation of a permit, license, grant or contract, or the sale or purchase of goods or property. However, even if you were with Section 87406.3's one-year prohibition, it only applies to local elected officials, chief administrative officers of a county, city managers, or general managers or chief administrators of a special district who held a position

with a local government agency as defined in Section 82041. Thus, the revolving door prohibition would not apply to you.

If you have any other questions on this matter, please contact me at (916) 322-5660.

Sincerely,
Scott Hallabrin
General Counsel

A handwritten signature in black ink, appearing to read "John W. Wallace", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

By: John W. Wallace
Assistant General Counsel
Legal Division

JWW:jgl