

February 15, 2012

Ruth Snodgrass
Cachuma Operation and Maintenance Board
3301 Laurel Canyon Road
Santa Barbara, CA 93105-2017

Re: Your Request for Advice
Our File No. A-11-234

Dear Ms. Snodgrass:

This letter responds to your request for advice on behalf of Bruce Mowry, the General Manager of the Cachuma Operation and Maintenance Board (COMB), regarding the reporting provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

Must Mr. Mowry report the rental of an apartment on his Statement of Economic Interests ("Form 700")? If so, on what schedule of his Form 700 must this information be reported?

CONCLUSION

If the apartment is used exclusively as Mr. Mowry's personal residence, it is not reportable on his Form 700. However, if Mr. Mowry claims a business deduction on the residence, he may be required to report the fair market value of the portion claimed as a tax deduction on Schedule B of the Form 700.

FACTS

Mr. Mowry is the General Manager of COMB, located in Santa Barbara. Under the conflict-of-interest code for COMB, Mr. Mowry is required to report "interests in real property which are located in whole or in part within the jurisdiction of COMB, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property, if the fair

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.

market value of the interest is \$1,000 or more.”

Mr. Mowry has signed a tenancy agreement with another individual entitled “Rental Lease” in order for Mr. Mowry to occupy an apartment as his personal residence. The contract began on November 27, 2011 and extends to June 2012. The property is located near a pipeline easement and construction site for COMB, as well as within the jurisdiction of COMB. A construction project is scheduled to start this month, and may require COMB to negotiate with the landowner/landlord for an additional easement during construction.

ANALYSIS

Under the Act, an interest in real property includes a leasehold interest in real property within the official’s jurisdiction if the fair market value of the interest is two thousand dollars (\$2,000) or more. (Section 82033.) However, for purposes of disclosure, “interest in real property” does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer. (Section 87206.)

If Mr. Mowry uses the apartment exclusively as his personal residence, it is not reportable on his Form 700. However, if Mr. Mowry claims a business deduction for the residence, it may be reportable if the fair market value of the portion claimed as a tax deduction is two thousand dollars (\$2,000) or more. If reportable, report the fair market value of the portion claimed as a tax deduction on Schedule B of the Form 700. A copy of the tenancy agreement need not be filed with the Form 700.

Please be aware that a personal residence is often not reportable, but may be a disqualifying interest. Mr. Mowry may have a potential conflict-of-interest in relation to the new construction project and may need to recuse himself from making or participating in making decisions specific to that project. Since you have not requested advice on whether or not Mr. Mowry may participate in decisions pertaining to this project, those issues are not addressed.

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

Sincerely,

Zackery P. Morazzini
General Counsel

By: Sarah Olson
Political Reform Consultant
Technical Assistance Division

SMGO:jgl