

March 26, 2015

John Sawatzky
Councilmember
P.O. Box 871
Blue Lake, CA 95525

Re: Your Request for Advice
Our File No. A-15-031

Dear Mr. Sawatzky:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the "Act").¹ Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090. Moreover, this letter is based on the facts presented. The Fair Political Practices Commission does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

Do the Act's conflict of interest rules prohibit you from participating in city council decisions regarding city-owned property consisting of one parcel located adjacent to real property your father owns and another parcel located 185 feet from his property?

CONCLUSION

No. Under the Act, you do not have a financial interest in these decisions.

FACTS

You are a city council member for the City of Blue Lake. The city council will be considering the sale or lease of two city-owned parcels. Your father owns real property adjacent to one of the parcels and 185 feet from the other parcel. You do not own, lease, or have any interest in the property.

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.

ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or using his or her official position to influence a governmental decision in which the official has a financial interest. The Act's conflict of interest provisions apply only to conflicts of interest arising from interests enumerated in Section 87103.

Real Property

A public official has a financial interest in real property in his jurisdiction only if he or she, or a member of his or her immediate family, holds a leasehold, beneficial or ownership interest, or option to acquire such an interest, and the fair market value of the interest is \$2,000 or more. (Section 82033.) You have indicated that you do not have an ownership or leasehold interest in either of the subject properties. Rather, the property is owned by your father. "Immediate family" means an official's spouse or dependent children under the Act. (Section 82029.) Thus, your father is not "immediate family." Accordingly, you do not have an interest in the property that could give rise to a conflict of interest under the Act.

Source of Income

A public official has an economic interest in any source of income, including promised income, totaling \$500 or more within 12 months prior to the governmental decision. (Section 87103(c); Regulation 18703.3.) You have not provided facts to analyze potential conflicts of interest based on income. If your father is a source of income as contemplated by the Act, you should request additional advice.²

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

Sincerely,

John W. Wallace
Assistant General Counsel

By: Valentina Joyce
Counsel, Legal Division

VJ:jgl

² In addition, a public official has a financial interest in any source of gifts to him or her if the gifts total \$460 or more within 12 months prior to the decision. (Section 87103(e); Regulation 18703.4.) However, there is an exception for gifts from a parent, which are considered to be neither gifts nor income to the official. Therefore, gifts from your father are not gifts or income.