



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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September 2, 2015

Caroline L. Fowler
City Attorney
Office of the City Attorney
100 Santa Rosa Avenue, Room 8
Santa Rosa, CA 95404

Re: Your Request for Advice
Our File No. A-15-146

Dear Ms. Fowler:

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

May Vice Mayor Chris Coursey take part in decisions regarding the construction of twenty apartment units on a vacant lot where he owns real property on the same street about 1500 feet from the site?

CONCLUSION

Yes. There is no reasonably foreseeable financial effect on his property.

FACTS

There is a proposed project for construction of twenty apartment units on a currently vacant lot. It is anticipated that the city council will be hearing the developer's appeal of recommendations made by one of the council's subordinate boards, either the Design Review Board or the Planning Commission. The apartment site is bordered to the east by North Street.

Vice Mayor Chris Coursey owns and resides on property located on North Street that is about 1500 feet from the apartment site. The areas surrounding the site and his property are built

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.

out and primarily residential. Vice Mayor Coursey has his own parking area located within the complex where he resides and he does not rely on street parking on North Street. According to a traffic impact study, the project would be expected to generate about 10 trips during the morning peak hour, 13 during the midafternoon peak hour and 12 during the evening peak hour. The study concluded that these impacts on traffic would not be significant.

ANALYSIS

Section 87100 prohibits any state or local public official from making, participating in making, or using his or her official position to influence a government decision in which the official has a financial interest specified in Section 87103. A public official has a “financial interest” in a government decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the public official’s interests. (Section 87103.) Vice Mayor Coursey has an interest in his real property, which he owns. (Section 87103(b).)

Regulation 18702.2(a) provides a list of circumstances under which the reasonably foreseeable financial effect of a governmental decision on real property in which an official has a financial interest is material. As relevant to your facts, the financial effect will be material if the decisions:

“(10) Would change the character of the parcel of real property by substantially altering traffic levels or intensity of use, including parking, of property surrounding the official’s real property parcel, the view, privacy, noise levels, or air quality, including odors, or any other factors that would affect the market value of the real property parcel in which the official has a financial interest.”

“(12) Would cause a reasonably prudent person, using due care and consideration under the circumstances, to believe that the governmental decision was of such a nature that its reasonably foreseeable effect would influence the market value of the official’s property.”

Traffic: Vice Mayor Coursey’s home is located 1,500 feet from the project site. The areas surrounding his home are built out. Under these facts, and the findings in the study, any impacts of additional traffic generated by 20 apartments would be insignificant.

Intensity of Use: As stated above, the areas surrounding Vice Mayor Coursey’s home and the proposed site are built out. Therefore, the project will not change the intensity of use of his property.

Parking: The Vice Mayor’s property has its own parking area located in the complex and he does not use street parking on North Street. Therefore, any increase in vehicles parking on North Street would not affect his property.

View: Based on the facts you have provided, it would be unlikely that the apartments will be visible from the Vice Mayor Coursey's property, especially given the fact that he lives in a flat built-out neighborhood.

Privacy, Noise & Air Quality: The 1500-foot distance between the proposed site and Vice Mayor Coursey's property and the density of the surrounding areas suggest that there will be little, if any, effect on the privacy, noise or air quality of his property.

Under these facts, it is not reasonably foreseeable that the project will materially impact Vice Mayor Coursey's real property by changing its character or having some other impact that would cause a reasonably prudent person to believe that the value of his property will change. Accordingly, he does not have a conflict to interest in decisions regarding the proposed project.

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

Sincerely,

Hyla P. Wagner
General Counsel

/s/

By: Valentina Joyce
Counsel, Legal Division

VJ:jgl