



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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March 30, 2018

Betsy Martyn
General Counsel
Big Bear Airport District
13 Via Palmira
Palm Desert, CA 92260

Re: Your Request for Advice
Our File No. A-18-034

Dear Ms. Martyn:

This letter responds to your request for advice on behalf of Big Bear Airport District Directors Steve Baker, Steve Castillo, and Wes Krause 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. Please also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate.

QUESTION

Does the Act prohibit Directors Baker, Castillo, or Krause from taking part in governmental decisions relating to the Board of Director's annual review of the District's Strategic Plan given that each of them rents an aircraft hangar from the District on a month-to-month basis?

CONCLUSION

No. The Act does not prohibit any of the Directors at issue from taking part in decisions relating to the Strategic Plan review so long as those decisions would not have a reasonably foreseeable material financial effect on any of these Directors' personal finances distinguishable from the effect on the public generally.

FACTS AS PRESENTED BY REQUESTER

You are the General Counsel of the Big Bear Airport District and the authorized representative of Directors Steve Baker, Steve Castillo, and Wes Krause. Each of these Directors

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.

rents an aircraft hangar from the District on a month-to-month basis. The Board of Directors will soon undertake its annual review of the District's Strategic Plan. You have sought formal written advice because you are concerned that each of these Directors may have a conflict of interest under the Act with respect to certain aspects of the upcoming Strategic Plan review due to each Director's month-to-month rental of an aircraft hangar from the District.

ANALYSIS

Sections 87100 and 87103 of the Act prohibit a public official from taking part in a governmental decision if the decision will have a reasonably foreseeable material financial effect on one or more of the official's financial interests distinguishable from the effect on the public generally. Section 87103 identifies the interests that may give rise to a disqualifying conflict of interest under the Act. Of those interests, each of the Directors at issue has an interest in his personal finances and those of immediate family members.


We first consider whether each of these Directors also has a real property interest in his month-to-month rental of an aircraft hangar from the District. Section 82033 defines an "interest in real property" for purposes of the Act, and provides that such an interest includes a leasehold interest owned directly, indirectly, or beneficially by the official or the official's immediate family if the fair market value of the interest is \$2,000 or more. However, Regulation 18233 clarifies that an "interest of a tenant in a periodic tenancy of one month or less" is neither an "interest in real property" nor a "leasehold interest." Therefore, none of these Directors has a real property interest in his month-to-month rental of an aircraft hangar from the District.

Next, we consider whether the decisions relating to the Strategic Plan review would have a reasonably foreseeable material financial effect on each Director's interest in his personal finances distinguishable from the effect on the public generally. To the extent that a decision may potentially affect the monthly rate that the District charges to rent its airport hangars, the effect of that decision on each Director's personal finances is indistinguishable from the effect on the public generally if the decision adjusts the rate equally, proportionally, or by the same percentage for all renters. (Regulation 18703(e)(1).) Therefore, the Act does not prohibit the Directors at issue from taking part in a decision relating to the Strategic Plan review that would adjust the District's monthly rate it charges to rent its airport hangars so long as the rate is adjusted equally, proportionally, or by the same percentage for all renters.

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

Sincerely,

Brian G. Lau
Assistant General Counsel


By: Matthew F. Christy
Counsel, Legal Division