



## FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

March 20, 2015

Russell Betts



**Re: Warning Letter**  
**FPPC No. 12/289: Russell Betts**

Dear Mr. Betts:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").<sup>1</sup> The Enforcement Division opened this case based upon a complaint which alleged that, as a member of the Desert Hot Springs City Council, you made, participated in making, and attempted to influence governmental decisions in which you had a financial interest because the decisions had material financial effects on your real property interests.

Under the Act, no public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.<sup>2</sup> To determine whether an individual has a disqualifying conflict of interest, the Act requires the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests, (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standard for each economic interest involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest.<sup>3</sup>

The Enforcement Division has completed its investigation of the facts in this case. Specifically, the Enforcement Division found that: 1) you were a member of the Desert Hot Springs City Council; 2) you contacted Rick Daniels, the DHS City Manager regarding installation of a barrier by DHS on the street upon which your residence is located; 3) you owned

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

<sup>2</sup> Section 87100.

<sup>3</sup> See Regulation 18700.

your residence; 4) your residence was directly involved in the decision regarding the barrier because the proposed location of the barrier was within 500 feet of your residence; 5) the financial effect of the decision on your residence was presumed to be material; and 6) the material financial effect of the decision on your residence was reasonably foreseeable.

But the evidence revealed several mitigating factors. You live in an unfinished development due to the bankruptcy of the developer. Your residence is one of 15 homes on the street, with 63 remaining lots left undeveloped, and your home is adjacent to the empty lots. So even though the "one penny rule" applies here, it appears that any financial effect on your property under the circumstances would be minimal. You admitted to contacting Daniels, but you did so at the request of your neighbors' public safety complaints. You also believed that Daniels sought advice from the DHS City Attorney regarding whether you had a potential conflict of interests. Thus, the totality of the circumstances shows that there was minimal public harm in this regard.

The complaint also included an allegation that you attempted to influence a governmental decision regarding a development agreement for an upscale restaurant in downtown Desert Hot Springs. Upon receipt of further evidence, the Enforcement Division has found the allegation to be without merit.

**This letter serves as a written warning.** You are advised that your failure to comply with the provisions of the Political Reform Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used against you should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that your failure to comply with the provisions of the Act in the future may result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon your notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,



Angela J. Brereton  
Senior Commission Counsel  
Enforcement Division