



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

March 25, 2010

Ms. Laurene Weste

REDACTED

**Re: Advisory Letter
FPPC Case No. 08/503; Laurene Weste**

Dear Ms. Weste:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”) found in Government Code Section 81000, and following. As you may be aware, the Commission received a complaint against you alleging violations of the conflict of interest provisions of the Act. Specifically, the complaint alleges that you made governmental decisions that had a reasonably foreseeable material financial effect on your real property interests while serving on the Santa Clarita City Council. The Commission has decided to close this case with this advisory letter.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use her official position to influence a governmental decision in which she knows or has reason to know she has a disqualifying conflict of interest. (Section 87100.) To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs 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.¹ (See Regulation 18700.)

Under Section 87100, a conflict of interest exists when you, as a public official, make, participate in making, or attempt to use your official position to influence a governmental decision in which you know or have reason to know you have a “financial interest.” You have a “financial interest” in a decision, within the meaning of Section 87100, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect

¹ The additional two steps of the analysis - whether the public generally exception applies and whether the individual is legally required to participate in the governmental decision - are inapplicable to this matter.

on the public generally, any real property (including leaseholds) in which you have an investment interest valued at \$2,000 or more, or on any source of income aggregating \$500 or more which you received within 12 months of the decision. (Section 87103, subdivision (a), (b) and (c).)

Under regulation 18704.2, real property in which the official has an interest is directly involved when any part of that property is located within 500 feet of the boundaries (or the proposed boundaries) of the property which is the subject of the governmental decision. This includes property in which the official has an interest where any part of the real property is within 500 feet of the boundaries (or proposed boundaries) of the redevelopment project area. Any financial effect of a governmental decision on real property which is directly involved in the governmental decision is presumed to be material.

There is also an exception to the conflict of interest prohibition in section 87100 that is relevant to this matter. Regulation 18702.4, subdivision (b)(1) permits a public official who might otherwise have a financial interest in a governmental decision to appear in the same manner as any other member of the general public solely to represent an interest in real property wholly owned by the official or members of his or her immediate family.

Even though your real property was not directly involved in the governmental decision, the analysis is not complete merely because your property is more than 500 feet from the property subject to the governmental decision, as suggested in advice provided by the city attorney. For indirectly involved real property, regulation 18705.2, subdivision (b)(1) establishes the controlling materiality standard. The financial effect of a governmental decision on real property which is indirectly involved in the governmental decision is presumed not to be material. This presumption may be rebutted by proof that there are specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property in which the public official has an economic interest, which make it reasonably foreseeable that the decision will have a material financial effect on the real property in which the public official has an interest.

In proving that it is reasonably foreseeable that the decision will have a material financial effect on the official's real property, factors to be considered include, but are not limited to, the development potential or income producing potential of the real property; the use of the real property, the character of the neighborhood including, but not limited to, substantial effects on: traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood.

The public official's economic interest is indirectly involved where the decision at issue is a general Redevelopment Agency decision, such as approval of the Redevelopment Agency budget financing or amendments to the general plan pertaining to the Redevelopment Agency, provided that these decisions are not among those enumerated in Regulation 18704.2(a)(5). (See *Lew FPPC Advice Letter, No. A-07-121.*)

As a Santa Clarita City Council member, you are a public official under the Act. (Sections 82048 and 87200.) By voting and participating in discussions during city Council

meetings regarding redevelopment agency financing, the library project at the Spruce Street property, and the Master's College Master Plan, you made and participated in making governmental decisions. According to the complaint and assessor's office records, you had an ownership interest in real property, located on Placerita Canyon Road, at the time of the decisions. Your economic interest was indirectly involved, because these decisions pertain to property in excess of 500 feet from your property, or involved redevelopment agency financing. In this matter, the allegations in the complaint turn on whether it is reasonably foreseeable that a material financial effect on your economic interests would result from your vote for and participation in discussions regarding the aforementioned decisions.

Even though we are closing our file on this matter, please be advised of the conflict of interest provisions of the Act (Sections 87100 and following.) in future decisions that you may make as a public official. The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

✓ Zachary W. Norton
Commission Counsel
Enforcement Division