



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

May 24, 2013

Thomas Mattson

REDACTED

Advisory Letter Re: FPPC No. 13/062, Thomas Mattson

Dear Mr. Mattson:

The Fair Political Practices Commission ("FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. As you may be aware, the Commission was investigating whether you violated the conflict of interest provisions of the Act when you negotiated a freeway agreement on behalf of the County of Humboldt ("County") with California Department of Transportation ("Caltrans") for the Alton Interchange project.

The FPPC has completed its investigation of the facts in this case. In your position as the Director of Public Works for the County, you negotiated a freeway agreement with Caltrans in 2007 related to the portion of State Highway 101 from the Van Duzen River Bridge to just north of Drake Hill Road. On May 9, 2007 you submitted a recommendation to the County Board of Supervisors to adopt a resolution approving the agreement you negotiated with Caltrans, which they did. As part of the agreement, Caltrans improved Sandy Prairie Road, a road near the project area that runs parallel to Highway 101. You own property where your residence is

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.

located that is adjacent to that portion of Sandy Prairie Road that Caltrans improved as a result of the agreement you negotiated and recommended to the Board of Supervisors.

Section 87100 of the Act states: "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." If the official has a financial interest in the governmental decision, the official has a conflict of interest that may disqualify the official from participating in any decisions concerning that interest.

To determine whether an individual has a disqualifying conflict of interest, the FPPC employs the following analysis: 1) was the individual a public official; 2) did the official make, participate in making, or use or attempt to use his official position to influence a governmental decision; 3) what is the public official's economic interest; 4) was the economic interest affected by the decision, either directly or indirectly; 5) was the economic interest materially affected by the decision; and 6) was it reasonably foreseeable that the economic interest would be materially affected by the decision. (See Regulation §18700.)

As the Director of Public Works you were a public official. By negotiating the freeway agreement and recommending it to the Board of Supervisors, you made a government decision in which you had an economic interest as the owner of real property that would be directly affected by the improvement of the road adjacent to you property. Further, the effect of the freeway agreement on your property was material and reasonably foreseeable. That being the case, you had a disqualifying conflict of interest and by negotiating the freeway agreement and recommending that the Board of Supervisors adopt the agreement, you violated the Act.

Despite your violation of the Act, the FPPC is not bringing an enforcement action against you because the governmental decision at issue occurred in May of 2007, so the five-year statute of limitations for bringing an administrative action ran before the FPPC received the complaint against you in January of 2013. (See Section 91000.5.)

Although the FPPC is not pursuing an enforcement action in this matter, you are advised that your failure to comply with the provisions of the Act in the future could result in an enforcement action. In addition, the information in this case will be retained and may be used against you should an enforcement action become necessary based on future conduct and/or newly discovered information.

Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Sincerely,

REDACTED 

Dave Bainbridge
Commission Counsel

cc: Douglas Jackson, Complainant