



FAIR POLITICAL PRACTICES COMMISSION

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

June 17, 2010

Council Member Lori Herbel

REDACTED

Re: Advisory Letter
FPPC Case No. 10/566; Lori Herbel

Dear Ms. Herbel:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act¹ (the Act) found in Government Code Section 81000, and following. As you are aware, we recently received a sworn complaint against you alleging that you violated the Act's conflict-of-interest prohibition regarding certification of farmers' markets in the City of Yucca Valley despite your economic interest in Certified Farmers' Market at Turtle Island in Joshua Tree. Your 2009 Annual Statement of Economic Interests discloses that you do, in fact, have an economic interest in Certified Farmers Market at Turtle Island in Joshua Tree. A review of the Yucca Valley Town Council meeting minutes for May 4, 2010, reveals that you recused yourself from voting on the agenda item concerning certification of farmers' markets in Yucca Valley and left the dais. However, the March 2, 2010, Yucca Valley Town Council meeting minutes show that you did provide advice to your fellow council members on the subject of farmers' market certification.

The Act not only requires that a public official abstain from making a governmental decision in which she knows or has reason to know she has a financial interest, but it also prevents her from participating in, or in any way attempting to use her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest. (Section 87100.) When an official provides advice or makes recommendations, she is "participating" in a decision. (Regulation 18702.2.) A public official is "influencing a governmental decision" if she contacts, or appears before, or otherwise attempts to influence any member, officer, employee, or consultant of the agency regarding the decision. (Regulation 18702.3.)

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.

Because you ultimately recused yourself from voting on the issue of certifying farmers' markets in Yucca Valley, we have decided to close this matter without commencing further investigation.

The FPPC publishes forms and manuals to facilitate compliance with the Act. If you need forms or a manual, or guidance regarding your obligations, please call the FPPC's Toll-Free Advice Line at 1-866-275-3772. Please also visit our website at www.fppc.gov.

If you have questions regarding this matter, please contact me at (916) 322-8241.

Sincerely,

REDACTED

Adrienne Korchmaros
Political Reform Consultant
Enforcement Division

cc: Milissa Anderson