



FAIR POLITICAL PRACTICES COMMISSION

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July 21, 2010

✓ Mr. Robert Blasier
o/b/o/ Judy Dawson

REDACTED

RE: FPPC No. 09/705; Judy Dawson, Mae Cendana

Dear Mr. Blasier:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you are aware, the Commission received a complaint against your client alleging violations of the conflict of interest provisions of the Act. Specifically, the complaint alleges that your client made and participated in making governmental decisions that had a reasonably foreseeable material financial effect on her real property while serving on the Ambrose Recreation and Park District Board. The Commission has decided to close this case without further action.

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. (See Regulation 18700.)

As a member of the Ambrose Recreation and Park District Board, your client is a public official under the Act. (Sections 82048 and 87200.) The Ambrose Recreation and Park District minutes show that Respondent Dawson voted on April 30, 2009 to terminate negotiations with

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.

National Affordable Communities for the sale of park district owned property, known as the "Clearland Drive Property." By voting on this matter during an Ambrose Recreation and Park District Board meeting on April 30, 2009, your client made a governmental decision.

According to records maintained by Contra Costa County, at all relevant times, Respondent Dawson owned real property, at 75 Beverly Circle, in the unincorporated community of Bay Point. In this matter, the allegations in the complaint turn on whether it is reasonably foreseeable that a material financial effect on your client's economic interests would result from your client's vote and participation in discussions regarding this governmental decision. Respondent's property was located within 500 feet of the "Clearland Drive Property", making this a directly involved conflict of interest. Any financial effect on directly involved real property is presumed to be material.

Under Regulation 18707, a public official does not have a disqualifying conflict of interest in the governmental decision if the *official* can establish that the governmental decision will affect the public official's economic interests in a manner which is indistinguishable from the manner in which the decision will affect the public generally. The small jurisdiction exception of Regulation 18707.10 states that the effect of the decision is not distinguishable from the effect on the public generally if all of the following conditions are met:

- (1) The jurisdiction of the public official's agency has a population of 30,000 or less and covers a geographic area of ten square miles or less;
- (2) The public official is required to live within the jurisdiction;
- (3) The public official, if elected, has been elected in an at-large jurisdiction;
- (4) The official's property is more than 300 feet from the boundaries of the property that is the subject of the governmental decision;
- (5) The official's property is located on a lot not more than one-quarter acre in size or not larger than 125 percent of the median residential lot size for the jurisdiction; and
- (6) There are at least 20 other properties under separate ownership within a 500 foot radius of the boundaries of the property that is the subject of the governmental decision that are similar in value.

Based on our investigation, there is sufficient evidence to establish that the requisite elements of the small jurisdiction exception have been met, and that, because of this exception, the effect of Respondent's vote is deemed indistinguishable from that of the public generally. Therefore, we have decided to close this case without further action.

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