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

December 17, 2009

Mr. James Grady

REDACTED

Advisory Letter Re. FPPC No. 09/803; James Grady

Dear Mr. Grady:

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, in response to a complaint filed with the Commission, our office was investigating whether you were in violation of the conflict of interest provisions of the Act. Specifically, the complaint alleged that you attempted to influence the Half Moon Bay City Council's decision on Ordinance No. C-04-09, a matter in which you had a disqualifying financial interest; that you failed to identify your financial interest on the record at the Council meeting, and that you failed to recuse yourself from the discussion of the matter in violation of Sections 87100 and 87103 of the Act.

Government Code Section 87100 of the Political Reform Act (the "Act"),[1] 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." To determine whether an individual has a disqualifying conflict of interests, the FPPC generally employs the following sequenced 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 are the public official's economic interests; 4) was the economic interest affected by the decision, either directly or indirectly; 5) was the economic interest materially affected by the decision; 6) was it reasonably foreseeable that the economic interest would be materially affected by the decision. (See Regulation 18700.)

[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 18109 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.

Under FPPC Regulation 18704.2, real property in which a public official has an economic interest is directly involved in a governmental decision if any of the following apply: (1) The real property in which the official has an interest, or any part of that real property, is located within 500 feet of the boundaries (or the proposed boundaries) of the property which is the subject of the governmental decision. For purposes of subdivision (a)(5), real property is located "within 500 feet of the boundaries (or proposed boundaries) of the real property which is the subject of the governmental decision" if any part of the real property is within 500 feet of the boundaries (or proposed boundaries) of the redevelopment project area.

Our investigation found that you did participate in a vote regarding Ordinance No. C-04-09 on November 17, 2009. You own an interest in real property which is near Poplar Beach. The proposed Ordinance affected use of Poplar Beach and the adjacent bluffs. However, our investigation found that the affected area is more than 500 feet from your property. Because your decision does not affect land within 500 feet of your property, it appears you did not violate the Act.

Had the beach or bluffs affected been within 500 feet of your property, you would have violated sections 87100 and 87103 of the Act. We have determined that an enforcement action for a violation is not warranted. Although we have decided not to pursue 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.

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

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Ty D. Moore
Commission Counsel
Enforcement Division