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

July 16, 2009

Brian T. Hildreth
Bell, McAndrews & Hiltachk, LLP
o/b/o Tom Holloway
455 Capitol Mall, Suite 801
Sacramento, CA 95814

Re: Warning Letter - FPPC No. 06/101, Tom Holloway

Dear Mr. Hildreth:

As you know, the Fair Political Practices Commission ("Commission") received a complaint against your client, Tom Holloway, alleging violations of the Act's conflicts of interests provisions.

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."

Based on the evidence obtained during our investigation, it appears that on or about June 30, 2005: 1) Mr. Holloway was a member of the Planning Commission for the City of Sonora; 2) Mr. Holloway voted to approve the application of California Gold Development Corporation (CGDC) to build a Lowe's Home Improvement Center in Sonora; 3) CGDC was a source of income to Mr. Holloway because within 12 months prior to the Planning Commission decision, KLA Landscape Architects, Inc., a company in which Mr. Holloway was a 50% owner, provided landscaping services to CGDC in the amount of $3,294; 4) CGDC was directly involved in the decision; 5) the financial effect of the decision on CGDC was material; and 6) the material financial effect was reasonably foreseeable. Thus, it appears that Mr. Holloway had a disqualifying conflict of interest under the Act and should have recused himself from voting on the matter.

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[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.

We have nevertheless decided to close this case. Upon review of the evidence available, it appears that the public harm in this instance was minimal. The Planning Commission decision to approve the Lowe's project was promptly appealed to the Sonora City Council, who held a *de novo* hearing of CGDC's application less than 30 days after the Planning Commission approval. This action by the Sonora City Council effectively nullified the Planning Commission decision. The Sonora City Council unanimously approved the application.

Additionally, the evidence shows several mitigating factors. Prior to the Planning Commission decision, Mr. Holloway sought advice from the Sonora Community Development Director regarding whether he had a disqualifying conflict of interests because CGDC was a source of income to him. While he should have consulted with the City Attorney, or the Commission's Technical Assistance or Legal Divisions, he appears to have acted in good faith to determine whether he had a conflict of interests. Additionally, Mr. Holloway has not served on the Planning Commission since 2006, and he has no plans to return to government service, diminishing the likelihood of future violations of the Act by Mr. Holloway. Lastly, Mr. Holloway has no prior history of enforcement action by the Commission.

This letter serves as a written warning. Your client is advised that his failure to comply with the provisions of the Political Reform Act in the future could result in an enforcement action. Additionally, the information in this case will be retained, and may be used against him should an enforcement action later become necessary based on future conduct and/or newly discovered information. Please be advised that his failure to comply with the provisions of the Act in the future may result in monetary penalties of up to $5,000 for each violation.

Please relay to your client that the Commission publishes forms and manuals to facilitate compliance with the provisions of the Act. If he need forms or manuals, or guidance regarding his obligations, please call the FPPC's Technical Assistance Division at (916) 322-5660, Monday through Friday, between 9:00 a.m. and 4:00 p.m. Please also visit our website at www.fppc.ca.gov.

If you have any questions regarding this matter, please contact us at (916) 322-5660.

Sincerely,

Angela J. Brereton

Angela J. Brereton
Commission Counsel
Enforcement Division