



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Germond and Commissioners Cardenas, Hatch and Hayward
From: Brian G. Lau, Acting General Counsel
Subject: Advice Letter Report and Commission Review
Date: August 6, 2018

The following advice letters have been issued since the July Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Natalie Dominguez [A-18-066](#)

A software development company certified by the Secretary of State to electronically accept campaign statements and reports was advised that campaign consultants are not permitted to electronically sign on behalf of any member of a committee. The individual charged with verification of the report or statement must sign the report or statement. Additionally, the requestor was advised that electronic signatures are acceptable on campaign statements and reports in lieu of filing on paper so long as certain requirements in the Act are satisfied.

Conflict of Interest

Gary R. Ray [A-18-110](#)

The County Cannabis Program Manager may act in her private role as trustee and beneficiary of a trust to sell real property where the sale is contingent on the County's approval of a conditional use permit to allow cultivation of cannabis on the property. However, under the Act, she has a prohibited financial interest in the County's permit decision and she may not make, participate in making, or influence the permit decision.

Casey Strong [A-18-111](#)

The Act prohibits a City Planning Commissioner from taking part in initial planning decisions relating to the redevelopment of the former site of a continuation school into multifamily housing because those decisions would have a reasonably foreseeable measurable impact on the Planning Commissioner's residential real property interest located within 475 feet of the site.

Yolanda M. Summerhill [A-18-113](#)

A firm which serves as the contract city attorney may advise the City in connection with a recall effort brought by residents, despite the fact that the firm has recused itself from advising on a

planning application for a golf course project due to the fact that a partner lives in close proximity to the project.

James R. Williams

[A-18-118](#)

The Lead Deputy County Counsel may not participate in the County's Civic Center Master Plan Project authorizing several years of construction, improvements, construction-staging and demolition approximately 400 feet from his leasehold interest. It is reasonably foreseeable that the decisions will increase or decrease the potential rental value of the property and impact the Counsel's use and enjoyment of the property.

Gary L. Edwards

[A-18-120](#)

A Councilmember with an ownership interest in a small commercial property leased to a mortgage firm may take part in decisions regarding a project to renovate, reconfigure, and expand a commercial building into a multi-tenant marketplace even though the Councilmember's property is 891 feet of the project.

Julia Sylva

[A-18-124](#)

Planning Commission Chairman, who rents separate commercial properties to a restaurant and commercial cannabis business may take part in decisions regarding conditional use permits for the sale of alcohol, but not for the sale of commercial cannabis. Because the sale of alcohol is not the primary activity of the restaurant and there are 44 similar permits within one-mile of the restaurant, the issuance of an alcohol permit will not have a reasonably foreseeable effect on the official's interests. However, because there are only two existing cannabis businesses in the city, the issuance of a commercial cannabis license will have a reasonably foreseeable and material effect on the official's interests.

Mark S. Manion

[I-18-129](#)

An agency employee whose position is not enumerated in Section 87200 and who does not make or participate in the making of governmental decisions is not subject to the Act's conflict-of-interest or gift provisions. However, if an employee takes part in a governmental decision that may have a foreseeable, material effect on any financial interest, that employee becomes subject to the Act's conflict-of-interest provisions. Regarding gifts provided in response to the disaster-response services, the Act expressly limits the provision of gifts to an official who serves in a decision-making capacity to prevent improper influences on the decision-making process. There is no exception for gifts resulting from disaster-response services. Gifts to a designated official may be donated to the official's agency within 30 days if the gifts meet the requirements of Regulation 18944.

Ty N. Mizote

[A-18-137](#)

The City Vice Mayor may take part in decisions related to placing a City-owned building leased to a bank on the surplus property list even though she has a real property interest in a commercial building within 1,500 feet of the City-owned building because the sale would not result in a reasonably foreseeable material effect on the Vice Mayor's financial interests.

Conflict of Interest Code

Jeffrey A. Mitchell

[A-18-084](#)

Two related local government agencies formed as a partnership between the state and city to manage property solely within the city were advised that the city council is the code reviewing body for their conflict of interest codes because their jurisdiction is wholly within the city.

Section 1090

Michael C. Ghizzoni

[A-18-048](#)

The Act does not prohibit a Supervisor, who owns farming businesses, from participating in a decision to modify the boundaries of a groundwater management basin because the decision is limited to very small portion of the basin and would have no foreseeable financial effect on his interest. The Supervisor does have a conflict under Section 1090 in a decision to approve a coordination agreement involving local groundwater sustainability agencies and covering a large portion of the basin stretching into adjacent county. However, Section 1090 does not prohibit the County from making these decisions because the rule of necessity applies.

Bruce D. Goldstein

[A-18-056](#)

Section 1090 prohibits a County Supervisor, also serving on the District Board, from participating in decisions funding a nonprofit organization that offered the Supervisor's spouse a paid position. However, the remote interest set forth in Section 1091(b)(1) for officers or employees of a nonprofit corporation allows the Board to make the funding decisions relating to the nonprofit corporation provided the Supervisor recuses herself from the decision.

David E. Kendig

[A-18-123](#)

Under the Act, the Fire Chief and Human Resources Director may not participate in decisions that would result in their individual promotions. However, under the Act and Section 1090, they may participate in decisions regarding their salaries and benefits so long as they are not setting a salary for themselves that is different from salaries paid to other employees in the same job classification or position.