



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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First Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

Conflict of Interest

Cara E. Silver

[A-22-131/A-22-131\(a\)](#)

Town Councilmember is prohibited from taking part in general plan housing element decisions involving three specific parcels located within 1,000 feet of the official's residence where the decisions would add dozens of residential units near the official's residence in a town with a relatively low number of housing lots, but such decisions can potentially be segmented such that the official may take part in the remaining decisions that would not impact those parcels.

Sudhanshu Jain

[A-22-132](#)

Although Councilmember has a potential conflict of interest in governmental decisions concerning a proposed precise plan for Downtown focus area given the proximity of the official's primary residence to the focus area, the public generally exception applies and permits the official to take part in the decisions. Because more than 12 months have passed since his wife received any income from an employer that owns real property within plan area, it is no longer a disqualifying source of income to the official.

Christopher J. Diaz

[A-22-129](#)

Mayor is prohibited from taking part in decision to approve a development project, which would add a significant number of developable single family home parcels, in an exclusive area, to a 48 acre property that is largely undeveloped and located within 1,000 feet of the official's residence. Under these facts, it is reasonably foreseeable that the decision will have a material financial effect on an official's interest in residential property under Regulation 18702.2(a)(8)(E) in that the decision may change the market value of the official's residence.

Heather L. Stroud

[A-23-001](#)

City officials are not prohibited from taking part in decisions related solely to the selection of a consultant to develop an area plan, despite the officials owning property and businesses within 1,000 feet of the proposed Area Plan boundaries. So long as the decision is limited to the selection of a consultant and does

not involve specific projects or development standards for identified properties or parcels, it is not foreseeable the decision will have a material financial effect on any of the officials' economic interests.

Michael McDonnell

[A-23-003](#)

Mayor is prohibited from taking part in a vote to provide funding to a homeless shelter within 500 feet of two of the Mayor's properties because it is reasonably foreseeable the decision will have a material effect on the properties. The legally required participation exception does not apply because the City Council has the minimum number of members to conduct the vote even if the Mayor recuses himself.

Sandra Maurer

[I-23-008](#)

Councilmember is likely disqualified from taking part in City decisions concerning the use of smart water meters and electromagnetic fields (EMF) because of the nexus between the decisions and income previously received from an entity established to oppose smart water meters and EMF emitting devices during the preceding 12 months. However, we cannot determine whether an exception to the Act's conflict of interest provisions, including the Public Generally Rule, allows for Councilmember's involvement in a specific decision until an actual decision pending before the City is identified.

Zaynah N. Moussa

[A-23-010](#)

Under the Act's conflict of interest provisions, Mayor Pro Tempore has a potentially disqualifying financial interest in decisions related to proposed zoning changes for an area in which she leases her residence. Nonetheless, the public generally exception applies to the decision because the effect on her financial interest is indistinguishable from its effect on the public generally. However, the Act prohibits Councilmember and Housing Commissioner from taking part in the decisions because it is reasonably foreseeable the decisions will have a material effect on their interests, which include residences and a parking lot located within the boundaries of the area subject to the decision. For purposes of the Councilmember and the Housing Commissioner, the public generally exception does not apply because a "significant segment" of the public will not be affected, and the officials' own multiple interests in real properties.

Eugene J Solomon

[A-23-012](#)

A candidate for City Treasurer is not required to recuse himself from participating in advisory committee recommendations regarding the Treasurer's office. Even if the candidate meets the definition of a public official, it is not reasonably foreseeable that the recommendations would have a material financial effect on the candidate's personal finances as any affect would be contingent upon the intervening events including the City Council approving the recommendations to be placed on a ballot, successful approval of the recommendations by voters, and the candidate's successful election to a future term of office.

Isaac Rosen

[A-23-005](#)

Because of the nexus between the decisions and income he receives from his employer, Planning Commissioner is prohibited from taking part in decisions concerning the Project where current clients of his employer are the Project applicant's representative and the project designer. Thus, the Commissioner may not take part in subcommittee recommendations concerning the project.

Michael Gates

[A-23-020](#)

Councilmember is not disqualified from taking part in decision related to a housing project more than 500 feet, but less than 1,000 feet, from the Councilmember's rental property because it is not reasonably foreseeable the decision will have a material financial effect on his interests in his property or rental business. Based on the information provided, there is no indication the Project would impact the

development or income producing potential of the property, the use of the property, the market value, or the character of the property as the zoning and character of the property will remain largely unchanged. Furthermore, there is no indication the Councilmember will incur costs due to the Project or will lose or gain any revenue from the Project.

Brian A. Pierik

[A-23-021](#)

Councilmember is not prohibited from taking part in decisions regarding a restorative management plan for a park, where his house is within 500 feet of the park, because the decision “solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities” and therefore comes within the exception to the materiality rules under Regulation 18702.2(d)(1). Separately, the Councilmember is prohibited from taking part in decisions whether a skate park may be located within 500 feet of his residence because the decisions are presumed to have a reasonably foreseeable and material financial effect on his residence.

Mark Vanni

[A-23-022](#)

Councilmember, with disqualifying conflicts of interest in update to City Housing Element, may take part in subsequent decisions if the decision in which the Councilmember is disqualified is property segmented and considered first. With almost 300 sites suitable for residential development, decisions related to four of the properties can be made independently from decisions related to the other 287 sites in the Housing Element and thus are not inextricably interrelated decisions.

Rachel H. Richman

[A-23-023](#)

Councilmember has a conflict of interest and may not take part in decisions to select an operator to provide homeless services, which could involve a hotel property located 371 feet from the Councilmember’s business and leased commercial space, because the facts indicate it is reasonably foreseeable the decision could change the potential rental value, and impact the Councilmember’s use and enjoyment of, the property.

Jon Primuth

[I-23-025](#)

Councilmember, who is also an attorney and partner in a law firm, is not generally prohibited from taking part in decisions involving the City Attorney merely because a predecessor firm, which has since merged with Councilmember’s firm, jointly represented a client with the City Attorney’s firm seven years ago. Based on the facts provided the Councilmember does not have any interest in the City Attorney or the City Attorney’s firm, and there is no indication that the decision could have an impact on the Councilmember’s current firm.

Jeffrey Ballinger

[A-23-031](#)

Mayor Pro Tem may participate in discussions and decisions surrounding the placement of a popular statue. The decisions will not impact the use and enjoyment of the leased property that houses the Mayor Pro Tem’s business, nor will it impact the amount or length of his lease. Further, it is not reasonably foreseeable that the decisions surrounding the statue will have an impact on the Mayor Pro Tem’s business entity or source of income based on the fact that the statue has not previously had any measurable impact on his business.

Jim Waschura

[A-23-036](#)

Planning Commissioner may not take part in a decision to amend a telecommunications facility ordinance where the official's residential property is located within 500 feet of the only property currently impacted by the ordinance because there are no facts indicating that the decision will not have any measurable impact on the official's property. Moreover, any financial effect on the Commissioner's property will be unique based on the proximity of the property to sole property impacted by the decision. Therefore, the public generally exception does not apply.

Marian L. Slocum

[A-23-038](#)

Planning Commissioner does not have a disqualifying financial interest in decisions involving a commercial project approximately 908 feet from the Commissioner's rental property. Based on the facts provides and location of the Project, there are no indications that the Project would impact the development or income producing potential, the use, the market value, or the character of the property as the property is fairly removed from the Project and the Project does not change the character of the project site. Further, there are no facts to indicate a change in the rental value of property, nor would the Commissioner incur any costs because of the Project.

Amy Ackerman

[A-23-041](#)

Councilmember is prohibited from taking part in decisions enhancing parks and recreation infrastructure at a park within 500 feet of her residence because there is no clear and convincing evidence that the decisions would not have any measurable impact on her real property. However, the Town may be able to segment decisions involving other parks to allow for the councilmember's participation.

Matthew T. Summers

[A-23-047](#)

Councilmember is prohibited from taking part in decisions because it is reasonably foreseeable that the decisions regarding a large mixed use housing development project, which include developing a parking lot in a commercial area, increasing the desirability of the area, introducing potential new customers or businesses to the area, will have a material financial effect on the Councilmember's leased commercial office space within 500 feet of the Project.

Revolving Door

Evann Whitelam

[A-23-006](#)

The permanent ban does not prohibit former Agency Director from advising healthcare plans regarding procurements before the Agency, because the Director's involvement in the procurement proceeding was limited to the high-level and general determination to initiate the process, she did not directly supervise the staff who developed and oversaw the proceedings, and she left the agency prior to the start of proceedings involving specific parties.

Jessica Sicard

[I-23-016](#)

The one-year ban does not prohibit former state employee from providing consulting services to a federal agency, as a subject matter expert on earthquake early warning alert technology, because this would not involve appearing before or communicating with the former state agency so long as the decision is before the federal agency. However, the former state employee may not use the proceeding to otherwise make prohibited appearances before or communications with her former state employer. Moreover, the permanent ban does not prohibit the former state employee from providing the consulting services to the federal agency related to the new proceeding.

Amilia Glikman

[I-23-029](#)

Under the one-year ban the Office of Legislative Counsel is a state administrative agency and the ban is potentially applicable to former Deputy Legislative Counsel if appearing before or communicating with the office. However, the one-year ban does not apply to appearances before or communications with the Legislature or other state agencies that have an attorney-client relationship with the Office of Legislative Counsel. Additionally, general guidance on laws and policies while working at the Department of Toxic Substances Control, would not be considered a “judicial, quasi-judicial, or other proceeding” subject to the permanent ban.

Section 1090

Blaine R. Cox

[I-22-106](#)

County Supervisor is prohibited from taking part in any decisions if it is reasonably foreseeable the decisions will have a material effect on his nonprofit employer. Supervisor is generally prohibited from taking part in any decision in which his employer is explicitly involved, including any negotiations involving a contract with the nonprofit. However, the Act does not prohibit statements made to the general public or media. For purposes of Section 1090, the Supervisor, as well as the County, cannot generally enter a contract with the nonprofit unless an exception applies. However, Section 1091(b)(1) provides that an officer or employee of a nonprofit corporation or 501(c)(3) entity has only a remote interest in the contracts, purchases, and sales of that nonprofit entity. Under this exception, a governing board is not prohibited from entering a contract, if the member with a financial interest discloses the interest to the board, the interest is noted in the board’s official records, and the official abstains from the contracting process.

Meredith Matthews

[A-23-002](#)

If a Vice Mayor becomes the executive director of a nonprofit corporation, she would have a prohibitive Section 1090 financial interest in any agreement between the City and the nonprofit. However, the City may enter into those contracts, including its annual contract, pursuant to the remote interest exception set forth in Section 1091(b)(1) as long as the official abstains from any participation in the making of such contracts.

Sky Woodruff

[A-22-121](#)

Under Section 1090, Mayor who is also employed by a nonprofit that provides services related to affordable housing development has a prohibited financial interest in contracts related to a redevelopment project where her employer has an ongoing business relationship with an entity that is part of the project proponent’s redevelopment team. However, the City may enter into these contracts under the remote interest exception of Section 1091(b)(1), provided the Mayor discloses her interest, it is noted in the City Council’s records, and she properly recuses herself from the proceedings.

Mitchell D. Dean

[A-22-127](#)

Financial account firm is not subject to Section 1090 for purposes of subsequent implementation plan contract where the firm was previously retained to create an economic development plan, which led the City Council to independently seek a consultant to create an implementation plan to further the goals of the economic development plan. Based on the facts provided, the firm was not aware of the necessity for an implementation plan at the time of creating the economic development plan, did not recommend the implementation plan, and had no duties to engage in or advise on the hiring of a consultant to create the

implementation plan. Therefore, the firm may be considered in the City's hiring process for a consultant to create the implementation plan.

Margaret Long

[A-22-128](#)

County Supervisor has a prohibited financial interest in the renewal or update of a contract between the County and his business for tenant screenings under Section 1090. The Supervisor also has a prohibited financial interest in the County's use of his business for preemployment screenings and fingerprinting services, as the transactions are contractual. Accordingly, the County may not contract to use the Supervisor's business for tenant screenings or use the business for fingerprinting services. The rule of necessity does not apply as other options are available for these services, even if the options are less convenient. However, the Supervisor only has a remote interest, as a landlord to the contracting party, for housing support services and housing assistance grants offered to tenants under lease with his business. Accordingly, the County is not prohibited from providing these services or grants provided the Supervisor properly recuses himself from the decisions.

Shiri Hoffman

[A-22-130](#)

Under Section 1091.2, County Board of Supervisors is permitted to contract with the County's Workforce Development Board to implement a plan prepared by the Workforce Development Board because Section 1091.2 applies, exempting contracts entered into by a Workforce Development Board from Section 1090.

Todd Marker

[A-23-007](#)

Councilmember has a prohibitive financial interest under Section 1090 in a contract decision involving her broadcasting business, co-owned with her spouse, to provide free public concerts for the City and in a contract decision for the City to purchase radio advertisements from the business. Moreover, the rule of necessity is not applicable because the facts provided fail to establish that the City contracting with the business is necessary. Accordingly, the City may not contract with the Councilmember's business for these services.

Neysa Hinton

[A-23-015](#)

Section 1090 prohibits City from hiring Mayor as the City Manager where the City Council has already taken action to fill the position including discussing the position in closed session, establishing a subcommittee to begin the process of filling the position, and appointing the Mayor to the subcommittee.

Donna Mooney

[A-23-013](#)

Vice Mayor is prohibited from taking part in governmental decisions relating to a proposed residential development project for up to 1,500 homes located on 607 acres of vacant land between 500 and 1,000 feet from his residence because it is reasonably foreseeable that the Project will have a material financial effect on his residence based on its potential to protect or increase the market value of neighboring property. However, two other officials with residences more than 1,000 feet from the project are not prohibited from taking part in those decisions because the facts do not provide clear and convincing evidence to rebut the presumption that the decisions would not have a substantial effect on their residences. In addition, based on the facts provided, the officials do not have an interest in a development agreement under Section 1090. Thus, officials not otherwise disqualified under the Act, can take part in, and the City may enter into, a development agreement under Section 1090.

Todd Marker

[A-23-014](#)

Under Section 1090, a City is prohibited from entering a contract with the host of radio show where a City Councilmember has a source of income interest in a broadcasting business that carries and sells

airtime for the host's show. Under these facts, the Councilmember has a financial interest in any contract between the City and the radio host and there are no applicable remote or noninterest exceptions that would allow the City to enter the contract.

Karli Frye

[A-23-024](#)

General Administrator of Community Services District, who also serves as a school district board member, has a remote interest in the School District's decision to sell a surplus building to the Community Services District under Section 1091(b)(13). The official must recuse herself from the decision in accordance with Section 1091. However, the School District may proceed with the sale.

Larissa Seto

[A-23-032](#)

The conflict of interest provisions under the Act and Section 1090 do not prohibit City Commissioner from taking part in governmental decisions involving the allocation of grant funds notwithstanding an application for the grant from the nonprofit organization for which the Commissioner is also a board member. Because she is not compensated by the nonprofit, the commissioner has no interest in the nonprofit under the Act. Similarly, the commissioner has a noninterest in any grant agreement under Section 1091.5(a)(8) because she is not compensated, and a primary purpose of the nonprofit supports the functions of the City Commission.

Keith F. Collins

[A-23-040](#)

Councilmember is not prohibited from taking part in a contract between the City and her employer, a public university, given that her salary and benefits come from a government entity and are not considered potentially disqualifying "income" under the Act. Similarly, under Sections 1090 and 1091.5(a)(9), the Councilmember does not have a financial interest in the contract, so long as her interest in the University as an employer is disclosed and noted in the City Council's record.

Serita Young

[A-23-046](#)

Under the Act and 1090, Councilmember, who was formerly an uncompensated officer of a nonprofit, is not prohibited from taking part in decisions related to a development project, including a decision of whether to settle a lawsuit regarding the project filed by the nonprofit, because the Councilmember has no economic interest in the nonprofit and her personal finances would not be affected. Further, neither the Act nor Section 1090 prohibit the Councilmember from taking part in the decisions due to a potential economic interest in her daughter's residence, given that the residence is located over 2,800 feet from the project site and the Councilmember does not have an interest in the contract.

Commission Opinions

None.

Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

Conflicts of Interest

In the Matter of Dirk Starbuck; FPPC No. 18/297. Staff: Theresa Gilbertson, Senior Commission Counsel and Paul Rasey, Special Investigator. Dirk Starbuck is a council member for the City of Lompoc. As a member of the city council, Starbuck participated in discussions and voted on matters related to the permitting of cannabis dispensaries, in which they knew or had reason to know of a material financial effect on Starbuck's real property, in violation of Government Code Section 87100 (2 counts.) **Fine: \$8,000.**

In the Matter of James N. Neil aka Jim Neil; FPPC No. 22/716. Staff: Angela Brereton, Assistant Chief of Enforcement and Jeffrey Kamigaki, Supervising Special Investigator. The respondent is represented by Gary S. Winuk of Kaufman Legal Group. James N. Neil aka Jim Neil, as an independent contractor of Kidder Mathews, Inc., was a consultant with the City of San Diego Housing Commission. Neil, as a consultant, participated in a governmental decision regarding the purchase of real property that had a reasonably foreseeable material financial effect on their financial interest, in violation of Government Code Section 87100 (1 count). **Fine: \$5,000.**

Legislation

- **[AB 319 \(Connolly\) – Conflict of interest code for the Department of Housing and Community Development](#)**

Status: Amended 2/15/23

Short Summary: AB 319 would impose requirements relating to the content of the Department of Housing and Community Development's (HCD) conflict of interest code, and would impose other related requirements on HCD.

Detailed Summary:

Conflict of interest code requirements: AB 319 requires certain HCD inspectors to be designated employees for purposes of the conflict of interest code adopted by the HCD, and requires each inspector to disclose all interests in real property, excluding one's primary personal residence.

Related HCD requirements: The bill would, commencing January 1, 2025, impose various related duties on HCD, including the duty to notify the FPPC of all inspectors who did not file their SEI after a reminder from HCD.

- **[AB 334 \(Rubio\) – Section 1090 and independent contractors](#)**

Status: Referred to the Assembly Elections Committee

Short Summary: AB 334 clarifies the circumstances under which an independent contractor is not an "officer" for purposes of Section 1090.

Detailed Summary:

Existing law: Section 1090 prohibits a member of the Legislature or an officer or employee of the state or a county, district, judicial district, or city from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

Circumstance the bill applies to: AB 334 would apply when a public entity that has entered a contract with an independent contractor to perform one phase of a project seeks to enter into a subsequent contract with that independent contractor for a later phase of the same project.

Clarifies when an independent contractor is not an “officer”: AB 334 would provide that, in the circumstance described above, the independent contractor is not an “officer” of the public entity, for purposes of Section 1090, if the independent contractor either (1) did not have responsibilities for public contracting on behalf of the public entity under the initial contract, or (2) did not participate in making the subsequent contract through its performance of the initial contract. The bill further clarifies what circumstances must be present in order for an independent contractor to not “have responsibilities for public contracting” and to not “participate in the making of the subsequent contract.”