



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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April 30, 2021

Colin Burns
Attorney
Harper and Burns LLP
453 S. Glassell Street
Orange, California 92866

Re: Your Request for Advice
Our File No. A-21-060

Dear Mr. Burns:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹ Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090. Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Do the Act’s conflict of interest provisions prohibit Councilmember Glenn Grandis from taking part in decisions relating to the interior remodel of the Fountain Valley Police Department located within 500 feet of his residence?

CONCLUSION

No. While there is a presumption that the reasonably foreseeable financial effect of the decisions would have a material effect on his real property, there clear and convincing evidence that the remodel will not have any measurable impact on Councilmember Grandis’s property.

FACTS AS PRESENTED BY REQUESTER

Your firm represents the City of Fountain Valley and you are seeking advice on behalf of City councilmember Glenn Grandis. Councilmember Grandis owns a condominium located approximately 50 feet from the Fountain Valley Police Department. The City is proposing an interior remodel of the Police Department building. Specifically, the slides you provided state that the renovation involves the modernization of the locker room that was constructed in 1984. The

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.

estimated renovation budget is \$2.8 million. As currently proposed, there will be no changes to the exterior of the Police Department.

ANALYSIS

Under Section 87100 of the Act, “[n]o 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.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family,” or on certain specified economic interests, including “[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more. (Section 87103(b).)

Councilmember Grandis has an economic interest in his real property, which is located less than 500 feet from the police department.

Foreseeability and Materiality

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, “[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).”

Where, as here, an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, “[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.”

The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official’s property. (Regulation 18702.2(a)(7).)

Here, although Councilmember Grandis’s real property is only approximately 50 feet from the police department, the facts state the proposed remodel of the police department’s locker room will involve no changes to the exterior of the building. Under these circumstances, we find the provided facts establish clear and convincing evidence that the potential interior renovation of a

non-public part of the police department will have no measurable impact on Councilmember Grandis's real property. Accordingly, the Act does not prohibit him from taking part in those decisions.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

By: *Jack Woodside*
Jack Woodside
Senior Counsel, Legal Division

JW:dkv