



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

May 27, 2021

Kimberly Hood
Interim City Attorney
City of Galt
Best Best & Krieger
500 Capital Mall, Suite 1700
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-21-070

Dear Ms. Hood:

This letter responds to your request for advice on behalf of Galt Vice Mayor Paul Sandhu 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

Would the effect of the City’s Corridor Plan on Vice Mayor Sandhu’s residential real property be indistinguishable from the effect on the public generally, such that he may take part in decisions concerning the Corridor Plan, despite being otherwise disqualified?

CONCLUSION

Yes, given the minimal effects, as well as the distance and physical barriers between his residence and the project site, the foreseeable effect on Vice Mayor Sandhu’s residence is indistinguishable from the effect on the public generally.

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.

FACTS AS PRESENTED BY REQUESTER

The City of Galt (“City”) was awarded a grant from the California Energy Commission (“CEC”) in response to its Grant Funding Opportunity Local Government Challenge notice in 2017 to prepare a Climate Action Plan, Corridor Plan, and Master Plan that support the City’s 2030 General Plan implementation policies and goals, in addition to regional and statewide climate and transportation policies and directives.

The Corridor Plan is a high-level planning document that identifies proposed improvements to Carillion Boulevard that could be made when traffic demands warrant. Carillion Boulevard is a 2.2-mile corridor located east of Highway 99 between Twin Cities Road and Simmerhorn Road. Carillion is primarily a four-lane arterial that services mainly residential housing with limited access points from collector streets. The Corridor Plan contains two proposed planning options for traffic improvements—Alternatives 1 and 2—though the City Council is not required to select either of these options and will simply be considering whether to accept the Corridor Plan as complete to satisfy the CEC grant requirements. The City does not have to formally adopt or implement either Alternative contained in the Plan at this time. An environmental analysis of potential impacts was also prepared in the form of an Initial Study/Mitigated Negative Declaration (“IS/MND”), which did not identify any significant impacts to traffic, aesthetics/views, noise, or air quality as a result of the Plan Alternatives. Nor is the Corridor Plan anticipated to divert traffic into the neighborhoods, which consist of residential streets and cul-de-sacs accessed by other arterial and collector streets from Carillion Boulevard.

Acceptance of the Corridor Plan does not require completion of any of the proposed improvements and does not bind the City or future City Councils to implementing any of the alternatives. Instead, any improvements to Carillion Boulevard would take place at some future date and incrementally, as warranted by traffic conditions and funding availability and pursuant to any future or more specific studies that the City may conduct beyond the high-level Corridor Plan.

There are approximately 7,045 residential parcels in the City and at least 15% of those parcels are located about 700-750 feet from Carillion Boulevard.

Vice Mayor Sandhu’s property is not directly adjacent to and does not directly abut Carillion Boulevard. Rather, his property is located approximately 304 feet from the eastern property line to Carillion Boulevard. His residence is located on an interior cul-de-sac over 300 feet “as the crow flies,” but involves several turns on other residential streets to reach Carillion Boulevard. Under either Alternative, the traveled roadway will remain the same with the existing sound wall limiting any changes in noise that may result for those properties. The “less than significant impacts” and benefits identified in the IS/MND and *Hood* Advice Letter, No. A-21-046 would impact at least 15% of the Cities residential properties equally, including Vice Mayor Sandhu’s residential property, without any measurable difference for properties that are 300 or 700 feet from Carillion Boulevard. The City is not aware of any other facts indicating that Vice Mayor Sandhu’s residential real property would be uniquely affected as compared to the significant segment of the public pursuant to Regulation 18703(b)(2).

ANALYSIS

In *Hood* Advice Letter, No. A-21-046, we advised, based on the facts provided, that there was not clear and convincing evidence that the Corridor Plan would have no measurable effect on the residential real property owned by Vice Mayor Sandhu. Accordingly, we advised that Vice Mayor Sandhu had a disqualifying conflict of interest under the Act and must recuse himself from decisions pertaining to the project. With additional information regarding the number of residential real properties near Carillion Boulevard, we now advise on whether the “public generally exception” applies, such that Vice Mayor Sandhu may still take part in decisions pertaining to the project.

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. (Section 87103 (emphasis added).)

A governmental decision’s financial effect on a public official’s financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on his or her financial interest is not unique compared to the effect on the significant segment. (Regulation 18703(a).) A significant segment of the public includes “[a]t least 15 percent of residential real property within the official’s jurisdiction if the only interest an official has in the governmental decision is the official’s primary residence.” (Regulation 18703(b)(2).) Here, 15 percent of the City’s residential real property is located less than (at most) 750 feet from Carillion Boulevard.

In this case, considering the size and scope of the project, the “less than significant” (though not necessarily immeasurable) impacts on noise and traffic levels, as well as the distance and physical barriers between his property and Carillion Boulevard, it appears there would be no distinguishable difference on Vice Mayor Sandhu’s property compared to other residences within 750 feet from Carillion Boulevard, all of which would experience similar impacts. Similarly, given the distance, physical barriers, and several turns it takes to reach Carillion Boulevard from Vice Mayor Sandhu’s real property, it also appears that any potential effect on the market value of Vice Mayor Sandhu’s real property would be indistinguishable from the effect on other properties within 750 feet from Carillion Boulevard.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Kevin Cornwall
Counsel, Legal Division

KMC:dkv