



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

June 21, 2021

Alisha Patterson  
Claremont City Attorney  
18575 Jamboree Road, 9th Floor  
Irvine, CA 92612

Re: Your Request for Advice  
**Our File No. A-21-081**

Dear Ms. Patterson:

This letter responds to your request for advice on behalf of City of Claremont City Councilmember Silviano Medina regarding the conflict of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup> 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, common law, 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.

### QUESTIONS

Do the Act’s conflict of interest provisions prohibit Councilmember Medina from taking part in governmental decisions relating to:

(1) The Village South Specific Plan (the “Specific Plan”) given that his business, a wine shop, bar, and restaurant, operates out of a tenant space located approximately 215 feet from the nearest boundary of the Specific Plan area?

(2) The City’s proposed sale of City-owned property (the “City Property”) located within the Specific Plan area to Village Partners Ventures, LLC (or Artec Partners) and proposed development of the City Property pursuant to the Specific Plan?

### CONCLUSIONS

(1) & (2) Yes. The Act’s conflict of interest provisions prohibit Councilmember Medina from taking part in governmental decisions relating to the either the Specific Plan or the City

---

<sup>1</sup> 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.

Property because those decisions would have a disqualifying financial effect on the Councilmember's leasehold interest in his business's tenant space based on the facts presented.

### **FACTS AS PRESENTED BY REQUESTER**

You are the City Attorney for the City of Claremont and the authorized representative of Claremont City Councilmember Silviano Medina. You provided additional facts on June 8, 2021 and June 16, 2021.

The City is in the process of preparing the Village South Specific Plan (the "Specific Plan"). If approved, the Specific Plan would establish a vision and zoning and development standards for an approximately 17-acre area within the City (the "Specific Plan Area"). The Specific Plan Area is generally bounded by the Metrolink tracks to the north, Arrow Highway to the south, and Bucknell Avenue to the west, and its eastern boundary flanks Indian Hill Boulevard.

The Specific Plan Area is currently the site of industrial manufacturing, a vacant car dealership, vacant lots, a gas station, and some professional businesses and residences. If approved the Specific Plan would expand the City's "Village Area" to allow for new sustainable, mixed-use, transit-oriented development.

#### *Potential Future Development Proposal*

Village Partners Ventures, LLC ("Village Partners") and Arteco Partners are in escrow to purchase several properties within the Specific Plan Area and are in the early stages of preparing a "South Village" development proposal based on the proposed Specific Plan.

#### *City Property*

The City owns a vacant "flag lot" in the Specific Plan Area (the "City Property"). Village Partners is in negotiations with the City to purchase the City Property so Village Partners can use it for its "South Village" development proposal.

#### *The Councilmember's Business*

The Councilmember owns Packing House Wines ("PH Wines"), a wine shop, bar, and restaurant, has an investment in the business worth at least \$2,000 and he holds a management position with the business. PH Wines is a source of income to the Councilmember that is expected to amount to a total of \$500 within twelve months of the date any decision relating to the Specific Plan or the potential sale of the City Property would be made.

PH Wines is located in the Claremont Packing House, a large historic building in the Village Area of the City, which features restaurants, boutique shops, and art studios. The Packing House is north of the Specific Plan Area directly across the Metrolink tracks. Arteco Partners owns the Packing House and leases tenant space to PH Wines. The term of the lease is not month to month, and its fair market value exceeds \$2,000. The tenant space PH Wines leases is located approximately 215 feet from the closest boundary of the Specific Plan Area, and approximately 1,030 feet from the closest boundary of the City Property.

You state that governmental decisions relating to the Specific Plan will not change the termination date of PH Wines' lease, or the legally allowable use of PH Wines' tenant space in the Packing House. You also state that the Councilmember does not anticipate that the decisions will impact PH Wines' use and enjoyment of the tenant space or increase or decrease its rental value.

### *The Councilmember's Residence*

The Councilmember owns a residence within the City with a market value in excess of \$2,000. The residence is located approximately 2,070 feet from the closest boundary of the Specific Plan Area, and it is approximately 2,496 feet from the closest boundary of the City Property.

The Councilmember's residence is on Green Street, east of College Avenue and west of Elder Drive. If the Specific Plan is approved and built out as currently contemplated, Green Street will become the new entrance to the Specific Plan Area, and a traffic signal will be installed at the intersection of Green Street and Indian Hill Boulevard.<sup>2</sup> The Councilmember's residence is approximately 2,230 feet from that intersection.

The adoption of the Specific Plan may result in some new pedestrian, bicycle, and vehicular traffic on Green Street. However, you state that it is unlikely this traffic will travel as far east as the Councilmember's residence because Green Street is a residential street with only one lane each way, and because the City instead anticipates that vehicular traffic coming and going from the Specific Plan Area will use Indian Hill Boulevard and other major arterials. You note that some people may park on Green Street if there is insufficient parking in the Specific Plan Area, but it is very unlikely they will park east of the intersection of Green Street and College Avenue, which is west of the Councilmember's residence.

The City will soon consider governmental decisions relating to the Specific Plan, including but not limited to, whether to approve:

- The Specific Plan, and an associated zoning change, General Plan amendment, and certification of an Environmental Impact Report.
- The sale of the City Property to Village Partners.
- Village Partners' and/or Arteco Partners' development proposal(s) for the City Property.

### **ANALYSIS**

Under the Act's conflict of interest provisions, a public official is disqualified from making, participating in making, or using official's position to influence a governmental decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official's financial interests. (Sections 87100 and 87103.) An official's interests that may give rise to a disqualifying conflict of interest are identified in Section 87103. With respect to decisions

---

<sup>2</sup> The City intends to install another traffic signal at the intersection of Green Street and College Avenue regardless of whether the Specific Plan is approved. This proposed traffic signal is located east of the Specific Plan Area and is not a part of the Specific Plan, and you state that its installation does not require City Council approval.

relating to the Specific Plan or the City Property, Councilmember Medina has the following interests based on the facts presented:

- A business interest in PH Wines because the Councilmember has an investment in the business worth at least \$2,000 (see Section 87103(a)), and because he holds a management position with the business (see Section 87103(d)).
- A source of income interest in PH Wines because the Councilmember is expected to aggregate \$500 or more from that business in the 12 months prior to the decisions at issue relating to the Specific Plan or the City Property. (See Section 87103(c).)
- A real property interest in the Councilmember's residence, assuming his interest in that real property is worth \$2,000 or more. (See Section 87103(b).)
- A real property interest in the PH Wines' lease of its space within the Packing House, assuming that the Councilmember owns at least 10 percent of that business and that the Councilmember's interest in the lease is worth \$2,000 or more.<sup>3</sup> (See Sections 82033 and 87103(b).)
- An interest in the Councilmember's personal finances or those of immediate family. (See Section 87103.)

#### *Foreseeability and Materiality*

Regulation 18701(a) provides that a governmental decision's financial effect on an official's financial interest is presumed to be reasonably foreseeable if the official's interest is "explicitly involved" in the decision; an official's interest is "explicitly involved" if the interest is a named party in, or the subject of, the decision; and an 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 interest. In addition, an official's business interest is explicitly involved in any decision affecting the business as described in Regulation 18702.1(a)(1), and an official's real property interest is explicitly involved in any decision affecting the real property as described in Regulation 18702.2(a)(1) through (6).

Regulation 18701(b) sets forth the foreseeability standard applicable to a decision's effect on an official's interest that is not explicitly involved in the decision and provides that the effect on such an interest is reasonably foreseeable if it "can be recognized as a realistic possibility and more than hypothetical or theoretical." The effect is not reasonably foreseeable if it cannot be expected absent extraordinary circumstances not subject to the official's control.

Because none of the Councilmember's financial interests at issue are explicitly involved in the decisions relating to the Specific Plan or the City Property, the foreseeability standard of Regulation 18701(b) applies.

---

<sup>3</sup> Section 82033 defines "interest in real property" for purposes of the Act and provides in pertinent part as follows: "Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater."

At issue is whether the governmental decisions relating to the Specific Plan or the proposed sale and development of the City Property would have a disqualifying financial effect on the Councilmember's leasehold interest in the tenant space within the Claremont Packing House leased by PH Wines.

Regulation 18702.2 sets forth the materiality standards for a governmental decision's reasonably foreseeable financial effect on an official's real property interest. Subdivision (c) of that regulation provides that such an effect on an official's leasehold interest as the lessee of the underlying real property is material if the decision will:

- (1) Change the termination date of the lease;
- (2) Increase or decrease the potential rental value of the property;
- (3) Change the official's actual or legally allowable use of the property; or
- (4) Impact the official's use and enjoyment of the property.

### *The Specific Plan*

You state that governmental decisions relating to the Specific Plan will not change the termination date of PH Wines' lease, or the legally allowable use of PH Wines' tenant space in the Packing House. You also state that the Councilmember does not anticipate that the decisions will impact PH Wines' use and enjoyment of the tenant space. We must determine whether decisions relating to the Specific Plan would increase or decrease the potential rental value of PH Wines' tenant space.

PH Wines is a wine shop, bar, and restaurant located in the Claremont Packing House, a large historic building in the Village Area of the City, which features restaurants, boutique shops, and art studios. The Packing House is directly across the Metrolink tracks from the Specific Plan Area, and the tenant space leased by PH Wines is approximately 215 feet from the closest boundary of the Specific Plan Area.

The Specific Plan Area is currently the site of industrial manufacturing, a vacant car dealership, vacant lots, a gas station, and some professional businesses and residences. If the Specific Plan is approved, it would expand the City's Village Area to allow for new sustainable, mixed-use, transit-oriented development.

The facts presented indicate the Specific Plan's expansion of the City's Village Area would overhaul the vision and zoning and development standards for the Specific Plan Area, changing the allowable uses to resemble more closely those in the Village Area. The existing uses within the Specific Plan Area, which include industrial manufacturing, a vacant car dealership, and vacant lots, do not appear to generate substantial business for PH Wines. Considering that the 17-acre Specific Plan Area location is only approximately 215 feet away from PH Wines' tenant space, it is reasonably foreseeable that replacement of the existing uses in the 17-acre Specific Plan Area with sustainable, mixed-use, transit-oriented development would substantially increase the amount of individuals that would visit the Specific Plan Area, and some of those additional individuals would be potential customers of PH Wines. Furthermore, decisions relating to the Specific Plan are likely to improve the economic performance and overall aesthetics of the Specific Plan Area, and these improvements are likely to have a beneficial financial effect on PH Wines because it is located in

such close proximity to the Specific Plan Area. Therefore, based on the facts presented, it is reasonably foreseeable that decisions relating to the Specific Plan may increase the rental values in areas of close proximity to the Specific Plan Area, including PH Wines' tenant space within the Packing House.

*The City Property*

We now turn to consider whether it is reasonably foreseeable that decisions relating to the proposed sale of the City Property would increase or decrease the potential rental value of PH Wines' tenant space.

The City Property, located approximately 1,030 feet from PH Wines' tenant space, is made up of several vacant properties within the Specific Plan Area, which Village Partners (or Artec Partners) intends to include as part of its "South Village" development proposal based on the Specific Plan. It is reasonably foreseeable that the sale and development of several vacant properties within approximately 1,030 feet of PH Wines' tenant space with sustainable, transit-oriented mixed uses will result in an influx of additional people to the City Property and within the Specific Plan Area generally. These additional people would be potential customers of PH Wines. PH Wines' tenant space is located just north of the Metrolink tracks, in very close proximity to the transit to which the Specific Plan and the potential development of the City Property would be oriented. Also, being nearby higher uses generally improves commercial rental values. Therefore, it is also reasonably foreseeable that decisions relating to the City Property at issue may increase the rental value of PH Wines' tenant space within the Packing House based on the facts presented.

Accordingly, the Act's conflict of interest provisions prohibit the Councilmember from taking part in decisions relating to either the Specific Plan or the City Property because those decisions would have a disqualifying financial effect on the Councilmember's PH Wines' leasehold interest in PH Wines' leased tenant space.<sup>4</sup>

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

Sincerely,

Dave Bainbridge  
General Counsel

*Matthew F. Christy*

By: Matthew F. Christy  
Counsel, Legal Division

MFC:dkv

---

<sup>4</sup> We do not further analyze the financial effect of the decisions at issue on the Councilmember's other financial interests because we have already determined the Councilmember would be disqualified from taking part in those decisions.