



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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December 10, 2021

Alexander Abbe  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050

Re: Your Request for Advice  
**Our File No. A-21-157**

Dear Mr. Abbe:

This letter responds to your request for advice 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 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 conflict of interest provisions of the Act prohibit Vice Mayor Chahal from taking part in decisions to amend the General Plan and rezone the property at 1601 Civic Center Drive to facilitate the construction of a five-story affordable housing development, or decisions regarding whether to acquire the same property to facilitate its conversion into a public park?

### CONCLUSION

No. The facts indicate that neither project is likely to change the development potential, income producing potential, highest and best use, character, or market value of Vice Mayor Chahal’s residence 925 feet away given a 130-unit private townhouse development is located between the project site and his residence, and the traffic levels, intensity of use, parking, privacy and views associated with the area immediately surrounding his residence will not be significantly impacted. Therefore, under Regulation 18702.2(a)(8), Vice Mayor Chahal does not have a financial interest in those decisions that would prohibit his participation.

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<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 18109 through 18998 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

You are an Assistant City Attorney for the City of Santa Clara seeking advice on behalf of Vice Mayor Raj Chahal. A housing developer has filed a development application with the City of Santa Clara for a General Plan amendment and a rezoning of a 1.41-acre parcel located at 1601 Civic Center Drive. The site is currently occupied by an office building which has been vacant since 2019.

The developer has filed an application to amend the General Plan from Community Commercial to High Density Residential and to rezone the property from General Office to Planned Development. The proposal is to demolish the office building and construct a five-story affordable housing development with 106 rental units at a density of 75 dwelling units per acre with 72 parking spaces at 0.7 spaces per unit, on-site amenities, landscaping, and public right-of-way improvements.

Vice Mayor Raj Chahal and his wife own their primary residence, which is on Scott Boulevard, approximately 925 feet from the project site. Scott Boulevard is a busy north-south arterial and is parallel to Civic Center Drive. Between Scott Boulevard and Civic Center Drive is a 130-unit private townhouse development.

You state that there will be additional traffic generated by the 106 units, and because the dwellings will only have 0.7 parking spaces per dwelling unit, there is likely to be considerable parking spillover onto the nearby roadways, as 31 of the units will have no onsite parking spaces. However, you also state it is unlikely that a significant amount of traffic or spillover parking would end up on Scott Boulevard (where Vice Mayor Chahal's house is located), given that the vehicles would have to traverse through the private townhouse development to get there. In addition, there is an entrance to the City Hall parking lot on Civic Center Drive that is only 0.2 miles from the project site, which has several dozen parking spaces that are free to the public. Moreover, because of the distance and the intervening structures, the 5-story building would not be visible from his house.

The residential development proposal has garnered significant community attention. At a meeting of the City Council on October 19, 2021, which was conducted over zoom, the City Council considered a written petition filed by a resident, asking the Council to consider purchasing the property, and converting it into a public park. The only issue before the Council on October 19 was whether to place the topic on a future Council meeting for substantive discussion. Vice Mayor Chahal announced that his primary residence was located in the proximity and that he would be abstaining from the discussion, and he disconnected from the meeting for the duration of the discussion and vote. At the conclusion of the discussion, without Vice Mayor Chahal's involvement, the City Council voted to place the item on a future agenda. Vice Mayor Chahal would like to know whether he can participate in that upcoming agenda item.

You state that the decision to purchase the property in order to convert it to parkland would result in only a trivial amount of traffic. According to the City's Parks Department, a 1.41-acre park would be classified as a "neighborhood park," intended to serve the immediate neighborhood, and most, if not all, visitors to the park walk to the park. As a result, there would be a negligible amount of traffic and parking on adjacent roads. The conversion of the property into parkland would, however, necessarily preclude development of the parcel for residential uses.

## 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. (Section 87103.) Among those specified economic interests is “[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).) Accordingly, we must analyze the potential financial effect of the decisions at issue on Vice Mayor Chahal’s interest in his residential property.

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.” Therefore, Vice Mayor Chahal will have a financial interest in the project decisions if there is a realistic possibility the decisions will have a material financial effect on his real property interest.

Vice Mayor Chahal’s residence is approximately 925 feet from the project site. Regulation 18702.2(a)(8), regarding real property within 500 to 1,000 feet from the property involved in a decision, is the applicable standard. Under Regulation 18702.2(a)(8), a decision’s effect on an official’s real property interest is material if the decision would change the parcel’s market value, development potential, income producing potential, highest and best use, or character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality.

### *Affordable Housing Proposal*

Here, there is no indication from the facts provided that the project to construct a high density residential development would impact the development potential, income producing potential, highest and best use, character, or market value of Vice Mayor Chahal’s residence 925 feet from the project site. Importantly, because there is a 130-unit private townhouse development located between the project site and his residence, it is unlikely that a significant amount of traffic or spillover parking would end up on Scott Boulevard near his residence given that the vehicles would have to traverse through the private townhouse development to get there. In addition, because of the distance and the intervening structures, the housing development would not be visible from his residence.

Accordingly, it is not reasonably foreseeable that the decisions concerning the affordable housing development would have a material effect on Vice Mayor Chahal’s residence under Regulation 18702(a)(8).

*Purchasing Project Site for a Park*

You also requested advice as to whether Vice Mayor Chahal may take part in decisions regarding the possible purchase of the project site for the specific purpose of converting it into a public park. For the same reasons stated above, we find that the effects of such transactions would not have a reasonably foreseeable material financial effect on Vice Mayor Chahal's real property interest.

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